CLAT PG Law of Torts

Sample Paper – 2

Duration: 40 Minutes **Maximum Marks: 40**

Instructions

- This paper contains **40** Multiple Choice Questions (Single Correct Answer), modelled on the Law of Torts portion of **CLAT PG** entrance.
- Each correct answer carries **+1 mark**. There is **a negative marking of $-\frac{1}{4}$ mark** for each incorrect answer. Unattempted questions carry no penalty.
- Only **one** option is correct. Choose carefully.
- Syllabus: General Principles of Tort, Defences, Negligence, Strict & Absolute Liability, Vicarious Liability, Defamation, Nuisance, Trespass, Motor Vehicles Act 1988, Consumer Protection Act 2019.
- Use of mobile phones, calculators, or electronic gadgets is strictly prohibited.

Q1. The State Government lawfully constructs a public road that diverts traffic away from the main street. P, a shopkeeper on that street, suffers a drastic fall in business revenue as former customers now use the new route. No legal right of P is infringed by the State in building the road. P sues the State in tort claiming compensation for his financial loss.

Which of the following legal principles most accurately governs P's claim?

(A) P can recover substantial damages because the financial loss he suffered is real and provable.

(B) P can recover under the principle of injuria sine damno, since the construction of the road itself constitutes a legal wrong.

(C) P cannot recover because this is a case of damnum sine injuria – a situation where there is damage without violation of any legal right, which does not give rise to a cause of action in tort.

(D) P can recover on the basis that the State, as a public authority, owes a general duty to avoid all economic losses to citizens.

Q2. P negligently leaves his bicycle unattended in the middle of a narrow road. D, approaching in a car, spots the bicycle from a distance of 100 metres and has ample time and visibility to bring his vehicle to a stop. Despite this, D maintains his speed and collides with the bicycle, damaging it. D argues that P's negligence in leaving the bicycle on the road is the cause of the accident.

Which of the following best describes the legal outcome under the last clear opportunity rule?

(A) D is solely liable because, notwithstanding P's initial negligence, D had the last clear opportunity to avoid the accident and failed to avail himself of it; D's negligence is therefore the proximate cause of the damage.

(B) P is solely liable because the accident would not have occurred but for P's negligent act of leaving the bicycle on the road.

(C) Liability is divided equally between P and D on the basis of contributory negligence, reducing P's recovery by fifty percent.

(D) Neither party is liable, as both were simultaneously negligent and their respective negligence cancels out.

Q3. A rapidly spreading fire threatens to engulf an entire residential neighbourhood. The municipal fire brigade, in an effort to create a firebreak and prevent wider destruction, demolishes P's structurally sound house without P's consent. The firebreak succeeds and hundreds of homes are saved. P brings an action for trespass to land and claims full compensation for his demolished house.

Which of the following correctly states the legal effect of the plea of public necessity?

(A) The municipality is liable for trespass but only nominal damages will be awarded since no malice was involved.

(B) P can recover the full market value of the house because necessity does not excuse the destruction of private property.

(C) The municipality is liable only to the extent that it exceeded what was strictly necessary to create the firebreak.

(D) Public necessity is a complete defence in tort; the act of destroying P's property to avert a greater public danger is justified, and P has no enforceable claim for compensation against the municipality.

Q4. A railway company is authorised by an Act of Parliament to construct and operate a railway line between two cities. Residents living within close proximity of the tracks suffer disturbed sleep, structural vibrations in their homes, and increased noise levels as a direct result of daily train operations conducted strictly within the authority granted by the statute. The residents bring an action in nuisance against the railway company.

Which of the following accurately states the extent of the defence of statutory authority available to the railway company?

(A) The railway company is absolutely liable under the principle of Rylands v Fletcher because the operation of heavy trains is a non-natural use of land.

(B) The railway company is protected by the defence of statutory authority, provided it has not exceeded the powers granted by the statute and has taken all reasonable precautions to minimise the inevitable harm caused by authorised operations.

(C) The defence of statutory authority is unavailable in a private nuisance claim brought by individual residents; it operates only to defeat public law challenges.

(D) The residents must prove that they have suffered special damage beyond that suffered by the public at large before the defence of statutory authority can even be raised.

Q5. A police officer arrests P under a warrant that had, in law, expired on account of non-execution within the prescribed period. The officer genuinely believed the warrant was still operative, relying on his understanding of police procedure. No reasonable officer making proper enquiry could have held that belief. P sues the officer for wrongful arrest and false imprisonment.

Which of the following most accurately characterises the officer's available defence?

(A) The officer is fully protected because he acted on an honest and genuine belief, which constitutes a valid mistake of fact defence in tort.

(B) The officer is protected by broad official immunity, which shields police officers from civil suit for acts done in the execution of their duty.

(C) The officer's belief that an expired warrant continues to authorise an arrest is a mistake of law; mistake of law is not a defence in tort, and the officer is liable for the wrongful arrest.

(D) The officer is protected by the defence of inevitable accident since the expiry of the warrant was an event beyond his direct control.

Q6. P is injured in a road accident caused by D's negligence. After negotiations, the parties reach a written agreement under which D pays P Rs. 75,000 described as "full and final settlement of all present and future claims" arising from the accident, and P accepts and acknowledges receipt of the amount. Three months later, P's spinal injuries prove far more serious than initially assessed and P seeks to institute fresh proceedings against D for additional compensation.

What is the legal position regarding P's fresh claim?

(A) The accord and satisfaction executed between the parties constitutes a complete and binding discharge of D's tortious liability; P cannot maintain any further claim arising from the same accident.

(B) P may reopen the claim because the consideration paid (Rs. 75,000) was grossly inadequate relative to the actual extent of the loss, rendering the settlement inequitable.

(C) The settlement agreement is voidable at P's option because P was operating under a unilateral mistake regarding the extent of his injuries at the time of settlement.

(D) P may sue for the additional loss provided he first repays the Rs. 75,000 already received from D, thereby rescinding the settlement.

Q7. D's employees are unloading cargo from P's ship. In the course of their work, they carelessly drop a heavy wooden plank into the ship's hold. The plank strikes a metal fitting, producing a spark. The spark ignites petrol vapour that had accumulated in the hold, causing an explosion that destroys the entire ship. D contends that the destruction of the ship by fire was not a foreseeable consequence of carelessly dropping a wooden plank and is therefore too remote.

Which rule of remoteness of damage applies, and what is its effect on D's liability?

(A) D is not liable for the destruction of the ship because a reasonable person in D's position would not have foreseen that dropping a plank could cause a fire; the Wagon Mound (No. 1) test of reasonable foreseeability applies.

(B) D is not liable because the chain of causation was broken by the intervening accumulation of petrol vapour, which was a novus actus interveniens.

(C) D is liable only for the damage caused by the direct impact of the plank, not for the fire, since the fire was a distinct and separate consequence.

(D) Under the directness test established in Re Polemis (1921), a defendant is liable for all direct consequences of his negligent act, whether or not they were reasonably foreseeable; the fire being a direct result of dropping the plank, D is fully liable for the destruction of the ship.

Q8. D bears a longstanding personal grudge against P. D goes to the police and lodges a complaint accusing P of theft, knowing with certainty that

P did not commit any theft. D's motive is entirely to cause P harassment and financial ruin. P is arrested, spends three weeks in custody, faces trial, and is ultimately acquitted. P brings an action for malicious prosecution against D.

Which of the following correctly states the role of malice in an action for malicious prosecution?

(A) Malice is irrelevant to malicious prosecution; the only material elements are the absence of reasonable and probable cause and the termination of proceedings in the plaintiff's favour.

(B) Malice is an essential ingredient of the tort of malicious prosecution; the absence of an honest belief in the guilt of the accused – illustrated here by D's knowledge of P's innocence – satisfies the malice requirement, and combined with the other elements, makes D liable.

(C) D's liability depends solely on whether the information he supplied to the police was factually accurate; if any aspect of the report was true, no action lies.

(D) Proof of malice alone, without any further element, is sufficient to sustain an action for malicious prosecution.

Q9. A question arises in a tort of negligence case whether the defendant owed a duty of care to the claimant in a novel situation not governed by any prior authority. The court is required to apply the governing test for establishing a duty of care formulated by the House of Lords.

Which of the following correctly states all three elements of the test laid down in Caparo Industries plc v Dickman (1990)?

(A) Foreseeability of the damage; direct causation between the defendant's conduct and the damage; and breach of a statutory duty by the defendant.

(B) Proximity of physical location between the claimant and the defendant; actual quantifiable damage suffered by the claimant; and the defendant's conscious fault.

(C) Foreseeability of damage to the claimant; a relationship of sufficient proximity between claimant and defendant; and it being fair, just, and reasonable to impose a duty of care in the circumstances.

(D) Voluntary assumption of responsibility by the defendant; reasonable reliance on that assumption by the claimant; and pure economic loss as the head of damage.

Q10. P enters a large department store to browse the goods on display with a view to making purchases. Near the entrance, the floor has been freshly mopped and is slippery. No warning sign or barrier has been placed by store staff. P slips on the wet floor, falls, and sustains a fractured wrist. P brings an action against the store as occupier of the premises.

Under the traditional common law classification of entrants, in which category does P fall, and what is the standard of care owed?

(A) P is an invitee; the occupier owes a duty to take reasonable care to prevent damage from unusual danger of which the occupier knows or ought to know, and failure to warn of the wet floor constitutes a breach of this duty.

(B) P is a mere licensee to whom the occupier owes only a duty to warn of concealed traps or dangers known to the occupier; no duty to make the premises safe exists.

(C) P is a contractual entrant whose rights are defined exclusively by the terms of any contract of entry; in the absence of an express term, no duty of care arises.

(D) P is a trespasser because she had no prior appointment or specific invitation; the occupier owes a trespasser only the duty not to inflict deliberate harm.

Q11. P is a professional musician with an unusually acute sensitivity in her left hand caused by a rare neurological condition. D negligently allows a heavy object to fall, striking P's hand. For an ordinary person the impact would cause only minor bruising. Due to P's pre-existing sensitivity, the same impact causes permanent nerve damage, ending P's musical career and resulting in severe long-term financial loss. D argues that liability for consequences no reasonable person could have anticipated should be excluded.

Which principle governs the extent of D's liability?

(A) D is liable only for the damage that a reasonably healthy person would have suffered from the same impact; the enhanced consequences flowing from P's sensitivity are excluded.

(B) D is not liable at all because the permanent injury and financial loss were entirely unforeseeable and therefore too remote.

(C) Liability is apportioned between D and P, with P bearing the proportion attributable to her pre-existing sensitivity.

(D) D is fully liable for all consequences actually suffered by P; the sensitive plaintiff rule requires a defendant to take the plaintiff as he finds her, including any pre-existing vulnerability or unusual susceptibility, regardless of foreseeability of the extent of harm.

Q12. D's contractors, while excavating under a road, negligently sever a water main that supplies water to an industrial estate. P's factory, located on the estate, is forced to shut down production for 24 hours due to the loss of water supply essential to its manufacturing process. P's factory building and machinery suffer no physical damage whatsoever. P claims the lost profits from D in negligence.

Which of the following correctly states the general rule applicable to P's claim?

(A) P can recover the lost profits because they flow directly and foreseeably from D's negligent act of severing the water main.

(B) P cannot recover the lost profits in negligence because they constitute pure economic loss – financial loss unaccompanied by physical damage to the claimant's person or property – and the law of negligence generally does not permit recovery for pure economic loss in the absence of a special relationship giving rise to an assumption of responsibility.

(C) P can recover because the physical proximity of the water main to P's factory establishes a relationship of sufficient proximity to justify recovery.

(D) P can recover the lost profits on the basis of the rule in Rylands v Fletcher, since severing the water main amounts to the escape of a dangerous thing.

Q13. A mineral water company bottles its water in sealed, opaque bottles at its factory. P purchases a bottle from a retail shop with which the manufacturer has no direct contractual relationship. On drinking the water, P becomes seriously ill. Investigation reveals a toxic contaminant had entered the bottle during the manufacturing process. P has no contract with the manufacturer and sues the manufacturer directly in negligence.

Which principle enables P to sue the manufacturer despite the absence of any contract?

(A) P cannot sue the manufacturer because the doctrine of privity of contract bars any claim in the absence of a direct contractual relationship between P and the manufacturer.

(B) P may only sue the retail shop from which she purchased the bottle, as that is the party with whom she has a contractual relationship.

(C) P can sue the manufacturer directly in negligence; following Donoghue v Stevenson (1932), a manufacturer of goods intended for ultimate consumption owes a duty of care directly to the ultimate consumer, extending liability beyond contractual privity.

(D) P can only succeed under the Consumer Protection Act 2019 on a strict liability basis; no independent action in negligence lies against a manufacturer.

Q14. P retains a solicitor to pursue a valid personal injury claim against a defendant. The solicitor is fully aware of the applicable three-year limitation period. Through inattention and without any reasonable explanation, the solicitor allows the limitation period to expire without filing the claim. The claim is now statute-barred and cannot be pursued. P sues the solicitor for professional negligence.

Which of the following correctly describes the solicitor's liability?

(A) The solicitor is liable in professional negligence for breach of the duty of care owed to the client; the duty includes the timely conduct of litigation, and the solicitor's failure to issue proceedings in time entitles P to recover as damages the value of the lost claim (assessed on the basis of what P would likely have recovered).

(B) The solicitor is not liable because it is the client's own responsibility to monitor the limitation period; the solicitor's role is purely advisory.

(C) The solicitor is liable only if P can demonstrate with certainty that the underlying personal injury claim would have succeeded at trial.

(D) The solicitor is protected by the cab-rank rule, which prevents legal professionals from being held liable for omissions in the conduct of litigation.

Q15. D negligently causes a minor road accident in which P's head is given a slight bump against the headrest. P does not lose consciousness and the impact would cause only temporary discomfort to an ordinary person. Unknown to D, P suffers from a rare and undisclosed cranial aneurysm. The minor impact causes the aneurysm to rupture, and P falls into a prolonged coma, sustaining severe and permanent brain damage. D contends that liability should be limited to the consequences a normal healthy person would have suffered from the same minor bump.

What rule governs the extent of D's liability?

(A) D is liable only for the damage that was reasonably foreseeable to a person in D's position at the time of the accident – minor discomfort – and not for the catastrophic consequences caused by P's undisclosed condition.

(B) D bears no liability for the brain damage or the coma because the extent of harm is so far beyond normal expectations as to be legally extraordinary.

(C) Liability is shared between D and P in proportion to their respective contributions – D for the impact and P for her undisclosed pre-existing condition.

(D) D is fully liable for all of P's injuries, including the brain damage and coma; the egg-shell skull rule provides that a tortfeasor must take his victim as he finds him, including pre-existing vulnerabilities unknown to the tortfeasor, and cannot limit liability to consequences foreseeable in a hypothetically healthy victim.

Q16. P undergoes a surgical procedure performed by Dr D in February 2019. P experiences persistent but fluctuating pain post-surgery. In February 2022, an independent specialist examines P and for the first time advises her that the pain is attributable to a surgical error made by Dr D during the 2019 procedure. P immediately consults a lawyer and files a suit against Dr D in April 2022.

Considering the applicable limitation rules for negligence claims, which of the following statements is most accurate?

(A) The claim is time-barred because the cause of action accrued in February 2019 when the negligent surgery was performed, and the three-year limitation period expired in February 2022, before the claim was filed.

(B) The limitation period may run from the date of P's knowledge in February 2022 – when P first knew, or could reasonably have known, that her injury was attributable to Dr D's negligence – making the April 2022 filing potentially within time under the discoverability principle.

(C) No limitation period applies to claims of medical negligence; such claims can be brought at any time.

(D) The three-year limitation period commences from the date of P's last medical consultation with Dr D, regardless of when P acquired knowledge of the negligence.

Q17. D stores large quantities of industrial solvent in a reinforced containment tank within his factory. A valve seal fails and solvent leaks from the tank onto the factory floor. The solvent is contained entirely within D's factory premises by a secondary containment bund and never reaches P's adjoining land. P nevertheless sues D under the rule in Rylands v Fletcher, claiming that the risk of escape justifies imposing liability.

Can P succeed under the rule in Rylands v Fletcher?

(A) Yes, because D accumulated a dangerous and non-natural thing on his land in quantities likely to do harm if it were to escape.

(B) Yes, because the near-miss constitutes a constructive escape sufficient to engage liability under the rule.

(C) No, because actual escape of the dangerous thing beyond the boundary of the defendant's land is an essential element of the rule in Rylands v Fletcher; since the solvent was fully contained within D's premises, the rule is not engaged.

(D) Yes, under the principle of absolute liability as formulated by the Supreme Court of India, which does not require escape.

Q18. A chemical storage facility negligently allows a dangerous chemical to escape onto neighbouring land, causing severe personal injury to a worker present on that land. The claimant seeks compensation for personal injury under the rule in Rylands v Fletcher, relying on the strict liability standard of that rule rather than proving negligence separately.

Which of the following correctly states the English law position on recovery of personal injury damages under Rylands v Fletcher?

(A) Personal injury is not recoverable under the rule in Rylands v Fletcher as a matter of English common law; the rule is confined to damage to land and interests in land, and a claimant seeking personal injury compensation must rely on a separate cause of action such as negligence.

(B) Personal injury is fully recoverable under Rylands v Fletcher provided the escape was foreseeable to a reasonable defendant.

(C) Personal injury is recoverable under Rylands v Fletcher only where the defendant was also negligent in permitting the escape of the dangerous thing.

(D) Personal injury is always recoverable under Rylands v Fletcher as a matter of course, since the rule imposes strict liability for all consequences of the escape.

Q19. A petrochemical plant located near a densely populated city releases a cloud of toxic oleum gas following a structural failure in one of its processing units. The gas drifts into surrounding residential areas and causes serious respiratory injuries to thousands of residents. The plant management seeks to escape liability by invoking the defence of act of a stranger under the rule in Rylands v Fletcher, claiming that the structural failure was caused by sabotage.

Which of the following correctly states the governing Indian law principle applicable to the plant's liability?

(A) The act of a stranger is an absolute and complete defence under the rule in Rylands v Fletcher; the residents' claims must therefore fail.

(B) The plant is liable only if the residents prove that the management was negligent in securing the processing unit against sabotage.

(C) The residents must satisfy the test of reasonable foreseeability of the type of harm under the Wagon Mound rule for any claim to succeed.

(D) Under the principle of absolute liability laid down by the Supreme Court of India in M.C. Mehta v Union of India (Oleum Gas Leak Case, 1987), an enterprise engaged in a hazardous or inherently dangerous activity that causes harm is absolutely liable; no defence – including the act of a stranger – is available, and the victims are entitled to be compensated regardless.

Q20. In M.C. Mehta v Union of India (Oleum Gas Leak Case, 1987), the Supreme Court of India articulated the principle of absolute liability for enterprises engaged in hazardous activities, going beyond the rule in Rylands v Fletcher by denying any defences. The Court also addressed the quantum of compensation payable by such enterprises.

Which of the following best reflects the Court's justification for imposing absolute liability without any defence on hazardous enterprises?

(A) Because India's constitutional framework under Article 32 directly creates a strict tortious liability regime for all large-scale industrial accidents.

(B) Because the enterprise derives economic benefit from conducting the hazardous activity and is best positioned to bear and distribute the loss; the Court held that the measure of compensation must be correlated with the magnitude and capacity of the enterprise, so as to act as a deterrent.

(C) Because the Indian Penal Code imposes strict liability on corporate entities for all industrial accidents causing personal injury or death.

(D) Because Article 21 of the Constitution independently creates civil liability for any private party whose industrial activity results in loss of life or bodily injury.

Q21. Lightning strikes a tree on D's rural estate, setting it alight. The fire is entirely natural in origin; D has not contributed to its ignition. Before D can organise resources to extinguish it, the fire spreads across the boundary fence and destroys P's adjoining wheat field. P sues D in tort for the loss of the crop.

Under the principle established in Filliter v Phippard (1847), what is D's liability?

(A) D is strictly liable for all fire that spreads from his land onto the land of another, regardless of how the fire originated.

(B) D is liable under the rule in Rylands v Fletcher because fire is an inherently dangerous thing that accumulates on land and can escape.

(C) Under the rule in Filliter v Phippard, a landowner is not liable for fire that started on his land without his negligence or intentional act; since D did not cause or contribute to the fire, no liability attaches for its spread to P's land.

(D) D is liable to P because an owner of land owes an absolute non-delegable duty to prevent any fire from spreading to neighbouring properties, irrespective of its origin.

Q22. The managing director (MD) of a large corporation, while conducting official company business and acting within the scope of his board-conferred authority, makes knowingly false representations to a third party about the financial standing of a company project, inducing the third party to invest and thereby suffer financial loss. The corporation denies liability, arguing that fraud involves personal moral fault which a company as an artificial legal person cannot possess.

Which principle determines the company's tortious liability?

(A) The company is vicariously liable; the managing director is the directing mind and will of the company (the "organ" of the company), and fraudulent acts committed by him in his official capacity and within the scope of his authority are attributed to the company as its own acts.

(B) The company is not liable because fraud as a tort requires personal moral culpability, which can only be attributed to a natural person and not to an artificial legal entity.

(C) The company is liable only if it can be shown that the board of directors expressly approved the specific fraudulent representation made by the managing director.

(D) Whether the company is liable depends solely on whether the company ultimately profited financially from the fraud perpetrated by the managing director.

Q23. A police constable on official patrol duty is driving a police vehicle along a public road. The constable, distracted by his radio, runs a red light and collides with P's car, causing P serious injury. P sues both the constable and the State (represented by the relevant government department) for damages. The State argues it is entirely immune from liability because police officers exercise sovereign functions of the State.

Which of the following most accurately represents the current legal position in India regarding State liability in such a situation?

(A) The State enjoys absolute immunity from tortious liability for all acts performed by police officers, as they are discharging sovereign governmental functions.

(B) The State is liable only if P proves that the police constable had received express authorisation from a superior officer to drive at the particular speed at which the accident occurred.

(C) Only the police constable is personally liable for the accident; the State cannot be joined as a defendant in a civil suit arising from the torts of individual officers.

(D) The State is vicariously liable for the negligent acts of a police constable committed in the course of official duty; Indian courts have progressively curtailed the "sovereign immunity" doctrine and held that routine operational acts such as negligent driving do not constitute sovereign functions attracting immunity.

Q24. R and S are partners in a firm of chartered accountants. While handling a client's audit engagement in the ordinary and usual course of the firm's professional practice, R misappropriates client funds for his own personal benefit. The client suffers a substantial financial loss and sues both R and S. S denies liability, contending that the misappropriation was R's personal criminal act carried out for R's own benefit and therefore outside the scope of the partnership.

What is the legal position of S under partnership law?

(A) Only R is liable because misappropriation for personal benefit is inherently a personal criminal act that cannot be attributed to the partnership.

(B) Both R and S are jointly and severally liable to the client; under Section 26 of the Partnership Act, 1932, the firm and each partner are vicariously liable for any wrongful act committed by a partner acting in the ordinary course of the business of the firm, even where the act involves fraud or misappropriation.

(C) S is liable to the client only if S had actual prior knowledge of R's misappropriating conduct before the loss occurred.

(D) The partnership firm is not liable because misappropriation necessarily falls outside the scope of a professional accountant's legitimate authority and is therefore not done in the ordinary course of business.

Q25. X acts as an agent for P but has no authority, express or implied, to commit a trespass to the land of T. Without P's knowledge or instruction, X enters T's land and digs a trench. When P is informed, P says: "I fully approve of what X did; I take responsibility for that action." T sues P for the trespass.

Which of the following best describes the legal effect of P's statement?

(A) Ratification of an already-completed tortious act is not legally possible; a principal can only authorise acts prospectively, not retrospectively.

(B) P is not liable because X had no authority at the time of the trespass; authority cannot be granted after the act is completed.

(C) P's express ratification of X's unauthorised trespass makes P liable to T; ratification relates back to the date of the original act – as if P had authorised the trespass from the outset – and accordingly P is treated as the principal who directed the act.

(D) P's ratification is effective only for future acts of X; it cannot extend P's liability to an act already completed before ratification was given.

Q26. CraneCo hires out its crane together with its skilled operator, O, to BuilderCo for a period of one week. Under the arrangement, BuilderCo instructs O on what tasks need to be done and where to position the crane. However, CraneCo retains exclusive control over the manner in which O actually operates the crane – the speed, the lifting technique, and all operational decisions. While following BuilderCo's instruction on where to move a load, O negligently handles the controls and the load falls, injuring a bystander. The bystander sues both CraneCo and BuilderCo.

Who is vicariously liable for O's negligence?

(A) CraneCo (the general employer) remains vicariously liable because, although BuilderCo directed what work was to be done, CraneCo retained control over the manner in which O performed the work; it is control over the method of performance – not merely the allocation of tasks – that determines vicarious liability in a borrowed servant situation.

(B) BuilderCo (the temporary employer) is solely liable because it gave O the instruction that immediately preceded the accident.

(C) Both CraneCo and BuilderCo are equally liable as joint tortfeasors because the borrowed servant worked under both their directions simultaneously.

(D) O alone is personally liable as the direct physical cause of the injury; neither CraneCo nor BuilderCo bears vicarious liability.

Q27. During a session of Parliament, a Member of Parliament (MP) makes a speech in which she makes statements about P that are wholly false and highly damaging to P's reputation. The MP is fully aware that the statements are untrue and is motivated by personal animosity towards P. P wishes to sue the MP for defamation.

Which of the following correctly states the legal position?

(A) Absolute privilege does not extend to parliamentary statements because Parliament is a legislative body, not a court of law, and only judicial proceedings enjoy absolute privilege.

(B) Absolute privilege applies to parliamentary proceedings but can be defeated if P proves express malice on the part of the MP.

(C) Absolute privilege in parliamentary proceedings protects only ministers speaking on government business; statements by backbench MPs are protected only by qualified privilege.

(D) Absolute privilege attaches to all statements made in the course of parliamentary proceedings, whether by ministers or backbenchers; no action for defamation will lie regardless of the truth or falsity of the statement or the malice of the speaker, and P's claim must fail.

Q28. P's former employer, D, is contacted by the company to which P has applied for a new position. D furnishes a written employment reference in which she states several unflattering, though sincerely held, opinions about P's punctuality and attitude. P obtains a copy of the reference and sues D for defamation. D pleads qualified privilege.

Which of the following correctly states the legal basis and limits of the qualified privilege defence?

(A) Qualified privilege does not apply to employment references; they are either absolutely privileged or not privileged at all.

(B) The reference is protected by qualified privilege because there is a reciprocal duty on the part of the former employer to disclose relevant information and a corresponding interest on the part of the prospective employer to receive it; however, if P proves that D was actuated by express malice – meaning D did not honestly believe what she wrote – the privilege is lost and D becomes liable.

(C) The qualified privilege defence is automatically defeated if any single factual statement contained in the reference is shown to be objectively inaccurate.

(D) Qualified privilege applies only if the employment reference was given exclusively in response to a direct, formal written request from the prospective employer.

Q29. A regional newspaper publishes a photograph of P, a married woman of good reputation, dining at a restaurant with a man. The caption reads: "Old acquaintances share a meal." The statement and the photograph are literally true. However, readers who happen to know that the man is a convicted fraudster and underworld figure infer from the photograph that P is romantically involved with him or is associated with criminal elements. P sues for defamation.

Which of the following most accurately classifies the nature of the alleged defamatory meaning?

(A) P cannot succeed in defamation because the published statement is literally and entirely true, and truth (justification) is a complete defence.

(B) This is a case of true (popular) innuendo: the defamatory meaning is apparent from the words and photograph themselves, without any need for extrinsic facts.

(C) This is a case of false (legal) innuendo: the words and image are innocent on their face but acquire a defamatory meaning only in light of extrinsic facts known to some readers (the identity and criminal background of the dining companion); P must specifically plead and prove those extrinsic facts to establish the innuendo.

(D) A photograph accompanied by a caption cannot constitute defamation in law because photographs depict factual reality and are inherently incapable of bearing a secondary defamatory meaning.

Q30. As a general rule, slander (defamation in transient form) is not actionable in tort without proof of actual special damage suffered by the claimant. However, common law recognises specific categories of slander that are actionable per se – i.e., without proof of special damage.

Which of the following oral statements falls within a recognised category of slander that is actionable per se under English common law?

(A) An oral statement imputing that P has committed theft, a criminal offence punishable with imprisonment in the first instance.

(B) An oral statement expressing the opinion that P has an unpleasant personality and is difficult to get along with in social situations.

(C) An oral statement predicting that P will probably fail to succeed in a business venture she is about to undertake.

(D) An oral statement reporting, accurately, that P had recovered from a minor seasonal illness three years ago.

Q31. A factory discharges noxious chemical fumes onto a public road, creating a persistent and hazardous obstruction that inconveniences members of the general public using that road. P, a florist whose shop adjoins the road, suffers a sixty percent drop in customers because the fumes deter people from entering her shop. P wishes to bring a private civil action against the factory for the public nuisance.

Under what condition can P maintain a private action for public nuisance?

(A) P cannot bring any private action for a public nuisance; only the Attorney-General or a public authority can institute proceedings to abate a public nuisance.

(B) P can sue only by way of a relator action – i.e., in the name of the Attorney-General – and cannot sue in her own name.

(C) P can sue only if she first proves that the nuisance also amounts to a private nuisance directly affecting her own property rights, separate from the public nuisance.

(D) A private individual may maintain a civil action for public nuisance if she has suffered particular damage – damage over and above that suffered by the public at large; P's substantial and specific loss of business revenue satisfies the requirement of particular damage.

Q32. Vandals (strangers) trespass onto D's enclosed industrial yard at night and dump several drums of toxic waste in one corner. D discovers the dump the following morning. Despite being aware of the presence of the toxic waste and the risk it poses to neighbouring properties, D takes no steps to remove or neutralise it for several weeks. The toxic substances seep through the soil and contaminate P's adjacent land, causing P significant loss.

What is D's liability to P in nuisance?

(A) D bears no liability whatsoever because the nuisance was created by strangers over whom D had no control, and D did not participate in or consent to the dumping.

(B) D is liable in nuisance; once an occupier becomes aware of a nuisance or hazard on his land – whether created by a stranger or arising from natural causes – he comes under a duty to take reasonable steps to abate it within a reasonable time; D's knowing failure to act for several weeks constitutes a breach of that duty.

(C) D is liable only if the vandals who dumped the waste were previously known to D or had visited D's yard before the incident.

(D) D is liable only in negligence for failing to secure his premises against trespassers; no action lies against him in nuisance since he did not create the nuisance.

Q33. D operates a cement manufacturing factory that has been lawfully established and operating in a designated industrial zone for over twenty-five years. A property developer builds a new upmarket residential estate on land immediately adjacent to the industrial zone. The new residents complain that dust and noise from D's factory constitute a private nuisance, making their homes unpleasant to live in.

Which legal principle is most directly relevant to determining whether D's operations constitute a private nuisance?

(A) Residential use of land is, as a matter of law, accorded greater protection than industrial use; D is therefore automatically liable in nuisance irrespective of the character of the neighbourhood.

(B) D is liable in nuisance because dust and noise are classic forms of physical interference with the use and enjoyment of land and are inherently unreasonable.

(C) The locality rule applies: the character and nature of the neighbourhood is a relevant and important factor in assessing whether an interference amounts to an actionable private nuisance; what would be a nuisance in a quiet residential area may not be so in an established industrial zone, and D is less likely to be held liable for emissions that are consistent with the character of the area.

(D) D has acquired a prescriptive right to continue emitting dust and noise because the factory has operated continuously in that location for more than twenty years, which exceeds the prescription period.

Q34. P holds a valid lease over a plot of urban land and has been in continuous, undisturbed possession of the plot for four years. D, who is neither the owner of the land nor connected with P, enters the plot without permission, digs a portion of the garden, and removes soil. P wishes to bring an action in trespass to land against D. D argues that only the registered freehold owner of the land has standing to sue in trespass.

What is the correct legal position?

(A) P has sufficient standing to sue in trespass; the tort of trespass to land protects possession, not merely ownership, and a person in lawful possession of land – such as a leaseholder – has the right to maintain an action in trespass against a wrongdoer who has neither title nor possession superior to that of the plaintiff.

(B) P cannot bring an action in trespass to land because only the registered freehold owner holds a right of action; a leaseholder's remedy lies exclusively in contract against the landlord.

(C) P must join the freeholder as a necessary co-plaintiff before any trespass action can be instituted, since the freeholder's superior title is an indispensable element of the claim.

(D) A person in possession of land is entitled only to seek an injunction restraining further trespass; a possessor cannot recover damages in a trespass action without proving ownership.

Q35. An airline establishes a scheduled flight path that passes directly over P's farmland at an altitude of approximately 45 to 60 feet. The low-altitude overflights occur several times daily. The noise and air disturbance from the aircraft cause P's livestock to become agitated and reduce their productivity, and interfere substantially with P's agricultural operations on the land. P brings an action in trespass to land against the airline.

Which principle is directly relevant, and what is its effect?

(A) Aircraft flying over private land can never commit trespass because the airway above all private land is a public highway open to all; no ownership right extends into the airspace.

(B) P's only remedy is in nuisance; the tort of trespass to land is confined to direct physical intrusions on the surface and cannot extend to the airspace above land.

(C) P has no claim because legislation governing civil aviation grants blanket immunity to all licensed aircraft operators from any claim arising out of lawful overflights.

(D) Under the cuius est solum cujus est usque ad coelum et ad inferos principle, ownership of land extends upwards into the airspace to such height as is necessary for the ordinary use and enjoyment of the land; low-altitude overflights at 45-60 feet that demonstrably interfere with P's use of the land may constitute trespass to airspace, and P may maintain the action.

Q36. D and P both own identical model laptops. At a busy airport cafe, D mistakenly picks up P's laptop, genuinely believing it to be his own. D carries the laptop home and uses it for six days before realising the error. Upon discovery, D immediately contacts P and offers to return the laptop. P sues D for conversion of the laptop.

Which of the following correctly states the basis of D's liability?

(A) D is not liable for conversion because he acted in good faith under an honest mistake of identity; conversion requires a deliberate intention to deprive the owner of the property.

(B) D is liable for conversion; conversion is a tort of strict liability in the sense that an honest mistake does not negate liability – any intentional act of dealing with another's goods in a manner inconsistent with the owner's rights (here, taking and using P's laptop) constitutes conversion, regardless of good faith.

(C) D is liable only in negligence for his failure to verify that the laptop was his own before taking it from the cafe table.

(D) D is not liable because he offered to return the laptop promptly upon discovering the mistake; the offer to return extinguishes any prior conversion.

Q37. A road accident victim in a State wishes to claim compensation from the driver and insurer of the offending vehicle. The victim's lawyer advises that the claim must be filed before the appropriate statutory tribunal established under the Motor Vehicles Act, 1988.

Which of the following correctly describes the constitution and jurisdiction of a Motor Accident Claims Tribunal (MACT) under the Motor Vehicles Act, 1988?

(A) A MACT must be constituted of a bench of three judicial officers; it has jurisdiction only over fatal accident claims and not over injury-only claims.

(B) A MACT has jurisdiction exclusively over claims exceeding Rs. 1 lakh; petty claims below that threshold must be adjudicated by the ordinary civil courts.

(C) A MACT is established by the State Government and consists of one or more members appointed by the State Government; it has exclusive jurisdiction to adjudicate all claims for compensation arising from motor vehicle accidents on Indian roads, and claimants must approach the MACT rather than the civil court.

(D) A MACT functions as an appellate body over compensation decisions made by civil courts, and does not entertain original applications for compensation.

Q38. The Motor Accident Claims Tribunal (MACT) is computing compensation payable to the family of a deceased victim of a road accident under the Motor Vehicles Act, 1988. The Tribunal applies the multiplier method as clarified by the Supreme Court of India in Sarla Verma v Delhi Transport Corporation (2009).

Which of the following most accurately describes the multiplier method of computing compensation for loss of dependency in fatal accident cases?

(A) The multiplier method calculates a lump-sum award for loss of dependency by multiplying the deceased's assessed annual dependency income (net income after deducting personal expenses of the deceased) by an age-appropriate multiplier factor that represents the present capitalised value of the future stream of dependency, reflecting the deceased's age and remaining working life.

(B) The multiplier method calculates the compensation by summing the actual salary earned by the deceased over the period he survived in hospital following the accident, multiplied by a standard factor of two.

(C) The multiplier method is used exclusively in non-fatal injury cases to calculate projected future medical treatment costs; it does not apply to fatal accident compensation.

(D) The multiplier method calculates compensation by multiplying the deceased's gross last monthly salary by the total number of calendar months remaining until the deceased would have reached the statutory retirement age, without any deduction for personal expenses.

Q39. A consumer files a complaint against a service provider before the District Consumer Disputes Redressal Commission, alleging "deficiency in service." The service provider contests the complaint, arguing that the term "deficiency" is not defined in the Consumer Protection Act, 2019 with sufficient clarity to cover the conduct complained of.

Which of the following most accurately reflects the statutory definition of "deficiency" under the Consumer Protection Act, 2019?

(A) Deficiency means any economic loss suffered by a consumer as a direct consequence of the financial insolvency or liquidation of the service provider.

(B) Deficiency means the failure of the service provider to provide any service free of cost when such a request is made by a person holding a consumer card.

(C) Deficiency means a formal complaint against the service provider that has been registered before the District Commission but remains unresolved for more than thirty days.

(D) Deficiency means any fault, imperfection, shortcoming, or inadequacy in the quality, nature, and manner of performance which is required to be maintained by or under any law for the time being in force, or has been undertaken to be performed by a person in pursuance of a contract or otherwise, in relation to any service.

Q40. A consumer intends to file a complaint against a real estate developer for deficiency in service relating to a residential flat purchased for Rs. 85 lakh. The consumer is unsure before which consumer forum the complaint should be filed under the Consumer Protection Act, 2019.

Which of the following correctly identifies the pecuniary jurisdiction of the District Consumer Disputes Redressal Commission (District Commission) under the Consumer Protection Act, 2019?

(A) The District Commission has jurisdiction over complaints where the value of the goods or services involved does not exceed Rs. 20 lakh.

(B) The District Commission has jurisdiction over complaints where the value of the goods or services paid as consideration does not exceed Rs. 1 crore; since the flat cost Rs. 85 lakh (below Rs. 1 crore), the complaint is correctly filed before the District Commission.

(C) The District Commission has jurisdiction to hear all consumer complaints irrespective of their monetary value, subject to a right of appeal to the State Commission.

(D) The District Commission has jurisdiction only over complaints relating to defective goods; complaints relating to deficiency in services must in all cases be filed before the State Consumer Disputes Redressal Commission.

Detailed Solutions

Q1.

Solution

Concept — Damnum Sine Injuria: In the law of torts, not every loss suffered gives rise to a cause of action. The maxim *damnum sine injuria* (damage without legal injury) describes a situation where a person suffers actual harm but no legally recognised right has been violated. No tort is committed, and no remedy lies. **Analysis:** The State lawfully constructed a public road. P's revenue fell because the new road diverted traffic – a factual loss, but not the infringement of any legal right held by P. P has no legal right to the continued flow of public traffic past his shop. Comparable cases: *Gloucester Grammar School Case* (1410) and *Mogul Steamship Co. v McGregor* (1892) establish that losses flowing from lawful competitive or public acts, without violation of a legal right, are damnum sine injuria and non-actionable. **Why other options are wrong:**

- **Option A:** Mere proof that loss is real and provable is insufficient; there must also be a violation of a legal right. Real loss without legal injury does not ground a tort claim.
- **Option B:** Option B inverts the logic. *Injuria sine damno* means legal injury without damage; here there is damage but no legal injury. This category applies to nominal-damage cases, not this scenario.
- **Option D:** No general tortious duty exists requiring public authorities to prevent all economic loss to every citizen whose business may be affected by lawful public works.

Final Answer: P's claim fails because the financial loss is damnum sine injuria – damage without infringement of a legal right. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q1

Q2.

Solution

Concept — Last Clear Opportunity Rule: Where the plaintiff is guilty of antecedent negligence but the defendant thereafter has a clear opportunity to avoid the accident and fails to take it, the defendant's negligence is treated as the sole proximate cause of the damage. The rule originates in *Davies v Mann* (1842) (the "donkey case"). **Analysis:** P negligently left the bicycle on the road – an act of antecedent negligence. However, D spotted the bicycle from 100 metres away with ample time and visibility to stop, and chose not to. D had the last clear opportunity to avoid the collision and failed to utilise it. D's failure to act on this opportunity makes D's negligence the proximate (effective) cause of the damage. P's prior negligence recedes into the background. **Why other options are wrong:**

- **Option B:** The "but-for" test alone would not be applied where the last clear opportunity rule applies; D's supervening negligence displaces P's antecedent negligence as the proximate cause.
- **Option C:** Equal apportionment reflects modern contributory negligence statutes (e.g., Law Reform (Contributory Negligence) Act 1945), but under the last clear opportunity rule D bears sole liability. The scenario does not support splitting liability 50-50.
- **Option D:** The rule does not result in both parties escaping liability; it identifies the party with the last clear chance as solely responsible.

Final Answer: D is solely liable under the last clear opportunity rule. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q2

Q3.

Solution

Concept — Public Necessity as a Complete Defence: Public necessity arises where a person destroys or interferes with private property to prevent a greater public danger. When the act is genuinely necessary to avert a substantially larger harm to the community, public necessity operates as a complete defence to tortious liability – unlike private necessity, which affords only a partial justification. **Analysis:** The fire brigade demolished P's house to create a firebreak that saved hundreds of homes. The act was strictly necessary, proportionate to the danger, and aimed at averting far wider destruction. Under the public necessity defence (recognised in cases such as *Cope v Sharpe* (1912) and *Surocco v Geary* (California, widely cited in comparative discussion)), the municipality is fully justified and owes P no compensation in tort. **Why other options are wrong:**

- **Option A:** Nominal damages are inappropriate; the defence is complete, not merely a mitigation of damages. The absence of malice is relevant only in malicious trespass scenarios.
- **Option B:** This would be correct if no defence of necessity existed, but public necessity is a recognised complete defence and displaces the ordinary trespass liability.
- **Option C:** Proportionality is a consideration in assessing whether necessity is

established, but once established the defence is complete; there is no residual partial liability for the portions that were "necessary."

Final Answer: Public necessity is a complete defence; P has no actionable claim. ⇒ $\boxed{\text{D}}$

Answer: (D) Go Back to Q3

Q4.

Solution

Concept — Statutory Authority as a Defence to Nuisance: Where Parliament expressly or by necessary implication authorises an activity, the defendant is shielded from tortious liability for interference that is an inevitable consequence of exercising those powers – provided the defendant acts within the statute's terms and takes all reasonable precautions to minimise harm. (*Allen v Gulf Oil Refining Ltd* [1981] AC 1001.) **Analysis:** The railway company was authorised by Act of Parliament. The noise, vibration, and disturbance are inevitable incidents of lawful railway operation within that authority. The company is protected, provided it has not exceeded its statutory powers and has taken reasonable steps to minimise unavoidable nuisance. The residents' claim in nuisance is defeated. **Why other options are wrong:**

- **Option A:** *Rylands v Fletcher* imposes strict liability for escape of dangerous things accumulated through non-natural use. Statutory authority is a recognised exception; the rule does not override a Parliamentary authorisation.
- **Option C:** Statutory authority operates as a defence to private law claims, including private nuisance actions brought by individual residents, not merely public law challenges.
- **Option D:** There is no pre-condition requiring proof of special damage before the defence can be raised; the defence is available to defeat the nuisance claim at the outset.

Final Answer: Statutory authority is a complete defence where operations are within statutory limits and reasonable precautions are taken. ⇒ $\boxed{\text{B}}$

Answer: (B) Go Back to Q4

Q5.

Solution

Concept — Mistake of Law Is Not a Defence in Tort: A mistake of fact – i.e., a genuine misapprehension of the factual circumstances – may sometimes afford a defence. A mistake of law – i.e., an erroneous belief about the legal effect or operation of a legal rule – is not a defence in tort. The maxim *ignorantia juris non excusat* applies. **Analysis:** The officer's belief that an arrest warrant remains valid despite having legally expired is a belief about the legal consequence of non-execution within time – a mistake of the law of criminal procedure, not a mistake about any underlying fact. Even if the belief was honest, it is a mistake of law. The warrant was invalid at law, and the arrest under it was unlawful. No reasonable officer making proper enquiry could have held the belief. The officer is therefore liable for wrongful arrest and false imprisonment. **Why other options are wrong:**

- **Option A:** Honest belief is sufficient for a mistake of fact defence, but the officer's error is one of law, not fact. Honesty alone does not convert a legal error into a factual one.
- **Option B:** Official immunity does not provide a blanket shield for unlawful arrests; liability for acts done without lawful authority is well established.
- **Option D:** Inevitable accident requires that the harm was unavoidable despite the exercise of reasonable care. The officer actively chose to arrest under a warrant he should have verified; this is not an inevitable accident.

Final Answer: The officer's mistake is one of law and affords no defence; he is liable for wrongful arrest. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q5

Q6.

Solution

Concept — Accord and Satisfaction as a Discharge of Tortious Liability: A tort is discharged by accord and satisfaction when the parties reach a binding agreement (accord) and the claimant accepts a payment or other consideration (satisfaction) in full settlement of all claims. Once executed, the claimant cannot revive the discharged claim even if the injuries prove more serious than anticipated. **Analysis:** P and D entered a written accord. D paid Rs. 75,000 expressly as "full and final settlement of all present and future claims" arising from the accident. P accepted and acknowledged receipt. The agreement is clear and comprehensive. The fact that injuries later proved more serious does not invalidate an otherwise valid settlement – the parties allocated that risk when they agreed to a final settlement covering future claims. P's fresh proceedings are barred. **Why other options are wrong:**

- **Option B:** Inadequacy of consideration is not, by itself, grounds to set aside a contract; courts do not re-open settlements merely because a party struck a poor bargain, absent fraud, duress, or unconscionability.
- **Option C:** Unilateral mistake (as to the extent of injuries) generally does not make a contract voidable unless the other party knew of and exploited the mistake. There is nothing to suggest that here.
- **Option D:** There is no general rule requiring repayment of settlement monies before suing afresh; once a binding accord is executed, the right of action is extinguished and there is nothing to "rescind" by returning the money.

Final Answer: Accord and satisfaction fully discharges D's liability; P cannot bring further proceedings. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q6

Q7.

Solution

Concept — Remoteness of Damage: Directness Test (*Re Polemis*): In *Re Polemis & Furness, Withy & Co Ltd* [1921] 3 KB 560, the Court of Appeal held that once negligence is established, the defendant is liable for all direct consequences of that negligent act, whether or not those consequences were reasonably foreseeable. Foreseeability is relevant only to establishing negligence (duty and breach), not to the scope of consequential liability. **Analysis:** D's employees negligently dropped the plank. The explosion and destruction of the ship were the direct physical result of that act (plank strikes fitting $\rightarrow$ spark $\rightarrow$ ignition of vapour $\rightarrow$ explosion). Under the *Re Polemis* directness test, D is liable for all direct consequences. (Note: *Re Polemis* has since been superseded in English law by the *Wagon Mound (No. 1)* foreseeability test, but this question specifically asks which rule applies to the described facts, and the scenario is drawn from *Re Polemis*.) **Why other options are wrong:**

- **Option A:** This describes the *Wagon Mound (No. 1)* [1961] foreseeability test, which replaced *Re Polemis*. The question tests knowledge of the directness test as it operated in the *Re Polemis* fact-pattern.
- **Option B:** The accumulation of petrol vapour was a pre-existing condition, not an independent intervening act by a third party. It does not constitute a

novus actus interveniens because no human agency intervened.

- **Option C:** The directness test does not limit liability to the immediate physical impact; all direct downstream consequences are covered.

Final Answer: Under the *Re Polemis* directness test, D is liable for all direct consequences including destruction of the ship. $\Rightarrow$ $\boxed{\text{D}}$

Answer: (D) Go Back to Q7

Q8.

Solution

Concept — Elements of Malicious Prosecution; Role of Malice: The tort of malicious prosecution requires: (1) institution of criminal proceedings by the defendant; (2) termination of those proceedings in the plaintiff's favour; (3) absence of reasonable and probable cause; (4) malice; and (5) damage. Malice means the absence of an honest belief in the guilt of the accused – it does not require spite or ill-will as its *only* ingredient but encompasses any improper purpose. **Analysis:** D lodged the complaint with *certain knowledge* of P's innocence – the clearest possible form of malice. Proceedings terminated in P's favour (acquittal). D acted without any reasonable cause. All five ingredients are present. Malice is an essential ingredient; without it the action fails even if the other elements are met. **Why other options are wrong:**

- **Option A:** Malice is not irrelevant; it is expressly identified as an essential element in all leading authorities including *Abrath v NE Railway Co* (1886) and *Martin v Watson* [1996].
- **Option C:** Factual accuracy of portions of the report is irrelevant where the core allegation (theft) is known to be false and is made with no honest belief.
- **Option D:** Proof of malice alone is insufficient; all five elements must be established. Without absence of reasonable cause, termination in plaintiff's favour, and damage, the action fails.

Final Answer: Malice is an essential element; D's knowledge of P's innocence satisfies it; combined with all other elements, D is liable. $\Rightarrow$ $\boxed{\text{B}}$

Answer: (B) Go Back to Q8

Q9.

Solution

Concept — Caparo Three-Part Test for Duty of Care: In *Caparo Industries plc v Dickman* [1990] 2 AC 605, the House of Lords established a three-stage test for determining whether a duty of care arises in novel situations: (1) Was it reasonably foreseeable that the defendant's conduct could cause damage to the claimant? (2) Was there sufficient proximity of relationship between the parties? (3) Is it fair, just, and reasonable to impose a duty in the circumstances? **Analysis:** All three limbs must be satisfied cumulatively. The test replaced the more expansive "neighbour" principle from *Donoghue v Stevenson* as the primary test for novel duty situations. It allows courts to incrementally develop duty of care by analogy with established categories. **Why other options are wrong:**

- **Option A:** This conflates duty of care with causation and statutory duty – separate doctrines. Direct causation and statutory breach are not elements of the Caparo duty test.
- **Option B:** Physical proximity is one aspect of the broader concept of legal proximity, but is not the test itself. Conscious fault is not part of the Caparo formulation.
- **Option D:** Voluntary assumption of responsibility and reasonable reliance form the *Hedley Byrne* test for negligent misstatement causing pure economic loss – a specific sub-category, not the general Caparo test.

Final Answer: The Caparo test: foreseeability + proximity + fair, just and reasonable. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q9

Q10.

Solution

Concept — Occupier's Liability: Classification of Entrants – Invitees: Under traditional common law, entrants are classified as: (a) contractual entrants; (b) invitees (including public invitees and business visitors); (c) licensees; and (d) trespassers. An invitee is one who enters with express or implied permission for a purpose for which the premises are held open to the public, particularly for business. The occupier owes invitees the highest standard of care – to take reasonable care to prevent damage from unusual danger known to, or discoverable by, the occupier. **Analysis:** P entered a department store to browse and potentially purchase goods. The store is held open to the public for commercial purposes. P is a public invitee (business visitor). The freshly mopped, unmarked wet floor is an unusual danger known to the store's staff. The failure to post a warning sign or erect a barrier is a breach of the duty owed to invitees. **Why other options are wrong:**

- **Option B:** Licensees are those who enter with permission for their own purposes (e.g., a social guest); they receive only the duty to warn of known concealed dangers. A shopper is an invitee, not a mere licensee.
- **Option C:** A contractual entrant pays for entry under a contract (e.g., a theatre or sports venue). A browser in a department store has not entered into any contract; she is a gratuitous business invitee.
- **Option D:** P entered with the store's implied invitation to the public – she is plainly not a trespasser.

Final Answer: P is an invitee; the occupier breached the duty of reasonable care by failing to warn of the wet floor. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q10

Q11.

Solution

Concept — Sensitive Plaintiff Rule ("Take Your Plaintiff as You Find Her"): Once a defendant is negligent and foreseeability of *some* damage is established, the defendant is liable for the full extent of the harm actually suffered, even where the severity of consequences results from the plaintiff's unusual pre-existing susceptibility. The defendant cannot limit liability to the consequences a normal person would have suffered. **Analysis:** D negligently dropped a heavy object, striking P's hand. The risk of *some* hand injury from a falling heavy object is foreseeable; that P would suffer a minor bruise is foreseeable for an ordinary person. D's negligence is therefore established. The enhanced harm (permanent nerve damage, career destruction) flows from P's rare neurological condition. Under *Smith v Leech Brain & Co Ltd* [1962] 2 QB 405 and *Page v Smith* [1996] AC 155, D must take P as found, including her undisclosed vulnerability. **Why other options are wrong:**

- **Option A:** Limiting liability to the consequences for a healthy person contradicts the sensitive plaintiff rule.
- **Option B:** Remoteness does not operate to exclude all liability where the type of harm (physical hand injury) was foreseeable; only the extent was greater than expected.

- **Option C:** There is no apportionment between a defendant and a plaintiff based on the plaintiff's pre-existing condition in the law of tort; contributory negligence requires negligent conduct by the plaintiff, not mere pre-existing vulnerability.

Final Answer: The sensitive plaintiff rule requires D to take P as found; D is fully liable for all consequences. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q11

Q12.

Solution

Concept — Pure Economic Loss: General Rule of Non-Recovery in Negligence: Pure economic loss is financial loss unaccompanied by any physical damage to the claimant's person or property. As a general rule, pure economic loss is not recoverable in negligence unless there is a special relationship of proximity giving rise to an assumption of responsibility (*Hedley Byrne v Heller* [1964] AC 465). The leading authority on relational economic loss is *Spartan Steel & Alloys Ltd v Martin & Co* [1973] QB 27. **Analysis:** D severed the water main. P's factory suffered no

physical damage whatsoever – its buildings and machinery were undamaged. The lost profits are purely financial losses flowing from the consequential disruption. There is no special relationship between D and P. Accordingly, P cannot recover the lost profits in negligence. **Why other options are wrong:**

- **Option A:** Foreseeability and directness of loss are not, by themselves, sufficient to overcome the rule against pure economic loss; a special relationship or assumption of responsibility is required.
- **Option C:** Physical proximity of the water main to P's factory does not create a *legal* relationship of proximity sufficient to establish a duty in respect of pure economic loss.
- **Option D:** *Rylands v Fletcher* requires accumulation of a dangerous thing on the defendant's own land, non-natural use, and escape onto the claimant's land. Severing a water main under a public road does not satisfy these requirements.

Final Answer: P's loss is pure economic loss; recovery in negligence is not available without a special relationship. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q12

Q13.

Solution

Concept — Manufacturer's Duty of Care to Ultimate Consumer (*Donoghue v Stevenson*): In *Donoghue v Stevenson* [1932] AC 562, the House of Lords (Lord Atkin) held that a manufacturer of goods intended for consumption, who sells them in a form in which they are intended to reach the consumer with no reasonable possibility of intermediate examination, owes a duty of care directly to the ultimate consumer – notwithstanding the absence of any contractual relationship. **Analysis:** The mineral water was bottled in sealed, opaque containers. No intermediate examination was practicable. P is the ultimate consumer. P fell ill due to a manufacturing defect (toxic contaminant). Under the neighbour principle and the *Donoghue v Stevenson* rule, the manufacturer owed P a duty of care, and P can sue directly in negligence independent of any contract. **Why other options are wrong:**

- **Option A:** Privity of contract bars a contractual claim but does not bar a tort claim in negligence; *Donoghue v Stevenson* directly overrode the privity bar in the tort context.
- **Option B:** P may have a contractual claim against the retailer, but *Donoghue v Stevenson* also gives her an independent right in tort against the manufacturer.
- **Option D:** Negligence and Consumer Protection Act claims can coexist; the existence of the CPA 2019 does not extinguish independent tort actions.

Final Answer: *Donoghue v Stevenson* enables P to sue the manufacturer directly in negligence despite no contract. $\Rightarrow$ $\boxed{\text{C}}$

Answer: (C) **Go Back to Q13**

Q14.

Solution

Concept — Professional Negligence of Solicitors; Loss of Chance: A solicitor owes a duty of care to a client to conduct litigation competently and timeously. Allowing the limitation period to expire without filing a claim is a clear breach. The measure of damages is the value of the lost claim – assessed on the basis of what the client would likely have recovered against the original defendant (*Hall v Simons* [2002] 1 AC 615; *Allied Maples Group Ltd v Simmons & Simmons* [1995]). **Analysis:** The solicitor was retained for the specific purpose of pursuing P's personal injury claim. The solicitor knew of the three-year limitation period. There was no reasonable excuse for the failure to file in time. The claim is now statute-barred. P's loss is the value of the claim she would have recovered. The solicitor is liable for that amount. **Why other options are wrong:**

- **Option B:** Limitation monitoring is squarely within the solicitor's professional duty; it is not solely the client's responsibility.
- **Option C:** P is not required to prove with *certainty* that she would have won; she need only show on the balance of probabilities what the lost claim was worth.
- **Option D:** The "cab-rank" rule is a Bar Council rule requiring barristers to accept instructions; it has nothing to do with immunity from liability for omissions in litigation.

Final Answer: The solicitor is liable; damages equal the value of the lost personal injury claim. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q14

Q15.

Solution

Concept — Egg-Shell Skull Rule (Thin Skull Rule): Where a defendant's negligence causes harm to a plaintiff who happens to have a pre-existing vulnerability or condition, the defendant is liable for the full extent of the damage actually suffered, even though the severity was unforeseeable. The rule requires the defendant to "take the victim as he finds him." Authority: *Smith v Leech Brain & Co Ltd* [1962]; *Dulieu v White & Sons* [1901]; *Vosburg v Putney* (US; widely cited). **Analysis:** D negligently caused a minor impact to P's head. P's aneurysm, unknown to D, ruptured as a result. For an ordinary person the impact would cause minor discomfort – D's negligence in causing at least *some* head contact is established. The catastrophic consequences result entirely from the undisclosed aneurysm. The egg-shell skull rule prevents D from limiting liability to "ordinary" consequences; D is fully liable for the brain damage and prolonged coma. **Why other options are wrong:**

- **Option A:** Limiting liability to reasonably foreseeable consequences (Wagon Mound test) applies to the type of harm, not the extent; once the type of harm (head injury) is foreseeable, the egg-shell skull rule extends liability to the full severity.
- **Option B:** The extraordinary extent does not negate liability once the basic negligence and type of harm are foreseeable.

- **Option C:** Contribution based on a plaintiff's inherent condition (as opposed to negligent conduct) is not a recognised basis for apportioning damages.

Final Answer: The egg-shell skull rule makes D fully liable for all injuries including the aneurysm rupture. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q15

Q16.

Solution

Concept — Limitation Period for Negligence: Discoverability Principle: In latent damage cases (where the injury is not immediately apparent), the limitation period may run from the date of the claimant's *knowledge* – i.e., the date when the claimant first knew, or could with reasonable diligence have discovered, that the damage was caused by the defendant's act or omission. This is the discoverability principle, codified in Section 6A of the Limitation Act 1963 (India) for personal injury, and reflected in the UK's Limitation Act 1980, Section 14. **Analysis:** P

experienced post-surgical pain but it was not until February 2022 that a specialist definitively attributed the pain to Dr D's surgical error. Prior to that, P did not know, and could not reasonably have known, that her continuing pain was the result of D's negligence. The limitation period under the discoverability principle begins running in February 2022. The April 2022 filing falls within three years of that date and is likely within time. **Why other options are wrong:**

- **Option A:** Applying a rigid start-date at the date of the negligent act ignores the discoverability principle that addresses latent harm. This approach would be harsh and unjust in medical negligence cases.
- **Option C:** Limitation periods apply to all civil claims including medical negligence; there is no category of claims that are perpetually actionable.
- **Option D:** The date of last consultation with the defendant is not the statutory trigger for the limitation period; knowledge of the negligence is.

Final Answer: The discoverability principle may make the April 2022 filing within time, running from February 2022. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q16

Q17.

Solution

Concept — Escape as an Essential Element of *Rylands v Fletcher*: The rule in *Rylands v Fletcher* (1868) LR 3 HL 330 requires: (1) accumulation of a dangerous thing on land; (2) non-natural use of land; (3) *escape* of the accumulated thing from the defendant's land to the plaintiff's land; and (4) resultant damage. Escape beyond the boundary of the defendant's land is indispensable; the rule does not operate where the dangerous thing is contained entirely within the defendant's own premises. **Analysis:** D accumulated industrial solvent (a dangerous thing) in his factory. The solvent leaked from the tank but was wholly contained within D's factory by the secondary bund and never reached P's land. The essential element of escape is absent. P cannot rely on *Rylands v Fletcher*. **Why other options are wrong:**

- **Option A:** The mere accumulation of a dangerous thing is insufficient without escape; all elements must be present simultaneously.
- **Option B:** There is no concept of "constructive escape" in the law; the rule requires actual physical escape beyond the defendant's land boundary.
- **Option D:** The absolute liability principle from *M.C. Mehta v Union of India* (1987) applies to enterprises engaged in *hazardous or inherently dangerous activities*. A factory storing industrial solvent may qualify, but even under that principle the harm caused must reach third parties; no harm reached P here.

Final Answer: Escape beyond D's land is essential; solvent contained on-site means *Rylands v Fletcher* does not apply. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q17

Q18.

Solution

Concept — English Law Position on Personal Injury under *Rylands v Fletcher*: Following *Cambridge Water Co v Eastern Counties Leather plc* [1994] 2 AC 264 and *Transco plc v Stockport MBC* [2003] UKHL 61, English law has confined the rule in *Rylands v Fletcher* to damage to land and property interests. Personal injury is *not* recoverable under the rule. A person seeking compensation for personal injury caused by an escape must bring the action in negligence or another appropriate tort. **Analysis:** The claimant seeks personal injury compensation relying solely on the *Rylands v Fletcher* strict liability rule, without proving negligence.

In English law, personal injury falls outside the scope of *Rylands v Fletcher*. The claim cannot be sustained under that rule; the claimant must establish negligence independently. **Why other options are wrong:**

- **Option B:** Personal injury is not within the scope of the rule at all; foreseeability of the escape is therefore irrelevant to the personal injury claim under *Rylands*.
- **Option C:** Even proof of negligence alongside the escape would not allow *Rylands* to cover personal injury; the claimant would simply pursue the negligence claim independently.
- **Option D:** Personal injury is *not* "always recoverable" under *Rylands v Fletcher*; the rule as restated post-*Cambridge Water* and *Transco* explicitly excludes personal injury.

Final Answer: Personal injury is not recoverable under *Rylands v Fletcher* in English law; claimant must rely on negligence. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q18

Q19.

Solution

Concept — Absolute Liability in India: *M.C. Mehta v Union of India* (1987): In *M.C. Mehta v Union of India* (Oleum Gas Leak Case) [1987] SCR (1) 819, the Supreme Court of India formulated the principle of absolute liability as a rule of Indian law, departing from the English *Rylands v Fletcher* rule. Under absolute liability, an enterprise engaged in a hazardous or inherently dangerous activity is absolutely liable for all harm caused to those who suffer as a consequence of that activity, and is entitled to claim *no* exception or defence whatsoever – including acts of God, act of a stranger, consent, or statutory authority. **Analysis:** The petrochemical plant conducts a hazardous activity. Toxic gas escaped and caused mass personal injury. The management invokes the "act of a stranger" (sabotage) defence. This defence is available under *Rylands v Fletcher* but is expressly unavailable under the Indian principle of absolute liability. The residents are entitled to compensation regardless of the cause of the structural failure. **Why other options are wrong:**

- **Option A:** "Act of a stranger" is a recognised defence under the English *Rylands v Fletcher* rule but the Supreme Court of India specifically excluded it from absolute liability.

- **Option B:** Negligence of the management is not required to establish liability under the absolute liability principle.
- **Option C:** The *Wagon Mound* foreseeability test governs remoteness of damage in negligence; it does not apply to the absolute liability doctrine.

Final Answer: Absolute liability under *M.C. Mehta* applies; no defence including "act of a stranger" is available. ⇒ $\boxed{\text{D}}$

$\boxed{\textbf{Answer: (D)}}$ Go Back to Q19

Q20.

Solution

Concept — Enterprise Liability and Quantum of Compensation under *M.C. Mehta*: The Supreme Court's justification for absolute liability rests on the principle that enterprises that carry on hazardous activities for profit derive economic benefit from those activities and are in the best position to absorb and distribute losses. The Court further held that the measure of compensation should be correlated with the magnitude and capacity of the enterprise – the larger and more profitable the enterprise, the larger the compensation payable – to ensure the rule serves as a genuine deterrent. **Analysis:** The Court's reasoning was grounded in enterprise liability theory: the enterprise profits; victims bear the loss; the law corrects this by requiring the enterprise to internalise the full cost of harms caused. The compensatory measure is not merely actual loss suffered but is calibrated to the enterprise's size and capacity to act as a deterrent to similar conduct in the future. **Why other options are wrong:**

- **Option A:** Article 32 confers jurisdiction on the Supreme Court to enforce fundamental rights; it does not itself create a strict tortious liability regime for industrial accidents.
- **Option C:** The IPC imposes criminal liability; it does not create a civil tortious liability regime for corporations.
- **Option D:** Article 21 protects the right to life and can be used to found constitutional remedies (as in *M.C. Mehta* itself), but it does not independently create civil tortious liability against *private parties* as a standalone principle.

Final Answer: Enterprise profits from the hazardous activity and must bear the loss; compensation is calibrated to enterprise size as a deterrent. ⇒ $\boxed{\text{B}}$

$\boxed{\textbf{Answer: (B)}}$ Go Back to Q20

Q21.

Solution

Concept — Liability for Spread of Fire: *Filliter v Phippard* (1847): At common law, a landowner is not liable for fire that starts on his land through no act or negligence of his own (i.e., fire originating from a natural cause or from the act of a stranger without the occupier's contribution). *Filliter v Phippard* (1847) 11 QB 347 drew the key distinction: an occupier is liable only if the fire was due to his own act or negligence; he is not liable for "a fire produced by mere chance" or inevitable accident. **Analysis:** The fire was started entirely by lightning – a natural phenomenon. D had no part in starting it. D did not negligently maintain conditions on his land that contributed to the fire's rapid spread (the facts do not suggest any). The fire is "produced by mere chance" and falls outside D's liability under the *Filliter v Phippard* principle. **Why other options are wrong:**

- **Option A:** Strict liability for all fire spreading from one's land was once the ancient rule under the Statute of Fires (1707), but the modern common law does not impose absolute liability for naturally occurring fires.
- **Option B:** *Rylands v Fletcher* requires accumulation of a dangerous thing by the defendant's own act; D did not accumulate the fire.
- **Option D:** There is no absolute non-delegable duty to prevent fire from spreading regardless of origin; duty only arises where the fire results from the occupier's act or negligence.

Final Answer: Under *Filliter v Phippard*, no liability for fire started without the occupier's negligence or intentional act. $\Rightarrow \boxed{\text{C}}$

$\boxed{\textbf{Answer: (C)}}$ **Go Back to Q21**

Q22.

Solution

Concept — Corporate Liability: Directing Mind and Will (Organ Theory): A company, as an artificial legal person, can only act through its human agents. Where a person is so senior in the corporate hierarchy as to constitute the "directing mind and will" of the company (i.e., an "organ" of the company), acts done by that person within their authority are attributed to the company as its own acts, not merely as acts for which it is vicariously liable. (*Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd* [1915]; *HL Bolton (Engineering) Co Ltd v TJ Graham & Sons Ltd* [1957].) **Analysis:** The MD acted within board-conferred authority on company business. The MD is unquestionably the directing mind and will of the company. The fraudulent misrepresentations made by the MD in an official capacity are attributed to the company as its own acts. The company cannot escape by claiming that moral culpability can only attach to natural persons; legal attribution of acts is not the same as imputation of personal moral guilt. **Why other options are wrong:**

- **Option B:** The organ doctrine overcomes the objection that a company "cannot" commit fraud; the MD's mental state (knowledge, dishonesty) is attributed to the company.
- **Option C:** Specific board approval of the precise fraudulent statement is not required; general authority to conduct the company's business is sufficient for attribution through the organ doctrine.
- **Option D:** The company's profit from the fraud is a factor that might affect quantum of damages (e.g., disgorgement) but is not the basis for establishing liability.

Final Answer: The MD is the company's directing mind; his official fraud is attributed to the company as its own act. $\Rightarrow \boxed{A}$

Answer: (A) Go Back to Q22

Q23.

Solution

Concept — State Liability for Torts of Police Officers; Erosion of Sovereign Immunity in India: The traditional doctrine of sovereign immunity (derived from the Crown immunity principle) exempted the State from liability for torts committed by its servants in the exercise of "sovereign functions." However, Indian courts have progressively narrowed this doctrine. The Supreme Court and High Courts have held that routine operational activities such as driving vehicles, maintaining roads, and managing police operations do not constitute the exercise of sovereign functions and cannot attract immunity. (*State of Rajasthan v Vidhyawati* AIR 1962 SC 933; *Nilabati Behera v State of Orissa* (1993).) **Analysis:** The constable was driving a police vehicle on routine patrol – an operational activity, not the exercise of a high governmental function. Running a red light and causing a collision is negligence in a pedestrian act of driving. The State is vicariously liable for this negligence committed in the course of the constable's official duties. **Why other options are wrong:**

- **Option A:** Absolute immunity for all police acts is incompatible with post-*Vidhyawati* Indian jurisprudence; routine acts are not "sovereign functions."

- **Option B:** There is no requirement that the officer obtain a superior's express authorisation for the specific speed of driving before liability attaches.
- **Option C:** Vicarious liability for the State as employer is well established in Indian law for operational-level negligent acts; the State can be jointly sued.

Final Answer: The State is vicariously liable; negligent driving on patrol is not a sovereign function. ⇒ $\boxed{\text{D}}$

Answer: (D) Go Back to Q23

Q24.

Solution

Concept — Partners' Mutual Vicarious Liability: Section 26, Partnership Act 1932: Under Section 26 of the Partnership Act, 1932, the firm and each of the partners are jointly and severally liable to the same extent as the partner who committed the wrongful act, where a partner acting in the ordinary course of the business of the firm commits a wrongful act or omission causing loss or injury to any person. The section expressly covers fraud and misappropriation where committed in the ordinary course of business. **Analysis:** R misappropriated client

funds *while handling the client's audit engagement in the ordinary course of the firm's professional practice*. The nexus between the wrongful act and the ordinary course of business is established. S cannot escape liability merely because R's act was criminal or solely for R's personal benefit; what matters is that the opportunity and context for the act arose in the ordinary course of the firm's business. **Why other options are wrong:**

- **Option A:** Section 26 explicitly extends to wrongful acts including fraud committed in the ordinary course of business; the criminal and personal character of the act does not sever the partnership's liability.
- **Option C:** Actual prior knowledge of the wrongdoing is not required for a partner to be vicariously liable under Section 26; liability arises from the nexus to ordinary firm business.
- **Option D:** Misappropriation may be outside the *authorised* scope of a professional's duties, but Section 26 covers acts done in the ordinary course of business even where the specific wrongful act is unauthorised.

Final Answer: Section 26 makes both R and S jointly and severally liable for the misappropriation in the firm's ordinary course of business. ⇒ $\boxed{\text{B}}$

Answer: (B) Go Back to Q24

Q25.

Solution

Concept — Ratification of Unauthorised Tortious Acts; Retrospective Effect: Where an agent acts without authority and commits a tort, the principal may subsequently ratify that act. Ratification has retrospective effect: it "relates back" to the time of the original act as if the principal had authorised it at the outset. Once ratified, the principal is treated as having directed the act, and the principal becomes liable for its consequences. (*Bolton v Lambert* (1889); *Buron v Denman* (1848).) **Analysis:** X had no authority to enter T's land. P's statement – "I fully approve of what X did; I take responsibility for that action" – is an express and unqualified ratification. By virtue of the retrospective effect of ratification, P is treated as having authorised and directed the trespass from the outset. T can sue P for the trespass as though P had ordered it directly. **Why other options are wrong:**

- **Option A:** Ratification of completed tortious acts *is* legally possible and well established; *Buron v Denman* is the leading authority.
- **Option B:** Authority can be granted retrospectively through ratification; the absence of authority at the time of the act is precisely the situation that ratification addresses.
- **Option D:** The retrospective ("relates back") effect of ratification expressly covers past completed acts; future-only effect would negate the entire doctrine of ratification.

Final Answer: P's ratification relates back to the act of trespass, making P fully liable to T. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q25

Q26.

Solution

Concept — Borrowed Servant; Control Test; Who Is Vicariously Liable: When an employee (servant) is lent by a general employer to a temporary employer, the question of which employer bears vicarious liability turns on who had *control over the manner* in which the servant performed the work – not merely who instructed *what* task to perform. *Mersey Docks and Harbour Board v Coggins and Griffith (Liverpool) Ltd* [1947] AC 1 is the leading authority. **Analysis:** BuilderCo directed *what* was to be done and where to position the crane (task and location). CraneCo retained *how* O operated the crane – speed, technique, all operational decisions.

O's negligent handling of the controls falls squarely within the domain of *how* the work was done, which remained under CraneCo's control. CraneCo is therefore vicariously liable. **Why other options are wrong:**

- **Option B:** BuilderCo directed the task (what/where), not the manner of performance (how). The negligence lay in the manner of operating the crane, which was controlled by CraneCo.
- **Option C:** Both employers are not equally liable as joint tortfeasors; the control test identifies the *single* employer who bears vicarious liability based on who controlled the method.
- **Option D:** O's personal liability as the direct cause does not extinguish the employer's vicarious liability; both the employee and the controlling employer can be held liable.

Final Answer: CraneCo retained method control; CraneCo is vicariously liable for O's negligent operation. $\Rightarrow \boxed{\text{A}}$

Answer: (A) **Go Back to Q26**

Q27.

Solution

Concept — Absolute Privilege: Parliamentary Proceedings: Absolute privilege is the highest form of privilege in defamation law. It attaches to certain categories of proceedings – including parliamentary proceedings – and operates as a complete and irrebuttable defence to any claim for defamation. It cannot be defeated even by proof of express malice or knowledge of falsity. In India, Article 105(2) of the Constitution expressly protects freedom of speech in Parliament. In English law, the Bill of Rights 1689 provides equivalent protection. **Analysis:** The MP made the statements during a session of Parliament – squarely within parliamentary proceedings. Absolute privilege therefore attaches. The fact that the MP knew the statements were false and acted from personal animosity is entirely irrelevant; malice cannot defeat absolute privilege. P's defamation claim must fail. **Why other options are wrong:**

- **Option A:** Absolute privilege extends to parliamentary proceedings as a distinct and established category, not merely to judicial proceedings.
- **Option B:** Malice can defeat qualified privilege but *never* absolute privilege; this is the fundamental distinction between the two categories.
- **Option C:** Absolute privilege in Parliament protects all members exercising their parliamentary function, not only ministers; backbench MPs' speeches

in the chamber are fully protected.

Final Answer: Absolute privilege in parliamentary proceedings is complete and irrebuttable; P's defamation claim fails. ⇒ D

Answer: (D) Go Back to Q27

Q28.

Solution

Concept — Qualified Privilege: Employment References; Duty-Interest Correspondence; Defeated by Malice: Qualified privilege attaches to communications made in discharge of a legal, moral, or social duty to a person who has a corresponding interest in receiving the information. Employment references given by a former employer to a prospective employer fall within this category. The privilege is defeated if the plaintiff proves that the defendant was actuated by express malice – meaning the defendant did not honestly believe what was said, or used the occasion to pursue a private purpose unrelated to the legitimate interest the privilege is designed to protect. (*Horrocks v Lowe* [1975] AC 135.) **Analysis:** D gave a reference about P to a prospective employer. There is a reciprocal duty on the former employer to provide honest relevant information, and a corresponding interest of the prospective employer to receive it. The reference is protected by qualified privilege unless P can prove that D did not honestly believe the unflattering opinions she expressed, or that she was motivated by malice. **Why other options are wrong:**

- **Option A:** Employment references are a well-established category of qualified privilege; they are not absolutely privileged, nor are they unprotected.
- **Option C:** A single factual inaccuracy does not automatically destroy qualified privilege; malice requires proof of dishonesty or improper purpose, not mere inaccuracy.
- **Option D:** Qualified privilege is not limited to responses to formal written requests; it applies to references given in appropriate circumstances regardless of the form of request.

Final Answer: Employment reference attracts qualified privilege; malice (dishonest belief) defeats it if proved. ⇒ B

Answer: (B) Go Back to Q28

Q29.

Solution

Concept — Innuendo: True (Popular) Innuendo vs False (Legal) Innuendo: A defamatory meaning that requires extrinsic knowledge beyond the ordinary meaning of the words is called a "false" or "legal" innuendo. It arises where the words published are innocent on their face but, when read in the light of extrinsic facts known to some readers, carry a defamatory secondary meaning. The plaintiff must specifically plead the innuendo and the extrinsic facts that give rise to it (*Tolley v JS Fry & Sons Ltd* [1931] AC 333). A "true" or "popular" innuendo arises where the defamatory meaning is the natural and ordinary meaning of the words themselves, readily apparent without any special knowledge. **Analysis:** The caption

("Old acquaintances share a meal") and the photograph are literally true and facially innocent. A reader without special knowledge would draw no defamatory inference. Only those readers who *know* the man is a convicted fraudster would infer P's involvement with criminal elements. The defamatory meaning depends entirely on extrinsic knowledge – the identity and criminal background of the companion. This is a false (legal) innuendo. **Why other options are wrong:**

- **Option A:** The defence of justification (truth) is available only if the defamatory meaning itself (not merely the literal words) is true. The defamatory innuendo – criminal association – is not proved true by showing that P did dine with the man.
- **Option B:** True (popular) innuendo arises from the natural meaning of the words themselves without external information; here external knowledge is required.
- **Option D:** Photographs can and do bear secondary defamatory meanings; innuendo is not confined to written words.

Final Answer: The defamatory meaning arises from extrinsic knowledge – this is a false (legal) innuendo that P must specifically plead. $\Rightarrow \boxed{C}$

Answer: (C) Go Back to Q29

Q30.

Solution

Concept — Slander Actionable Per Se: Categories: Ordinarily slander (spoken defamation) requires proof of actual special damage. However, four categories of slander are actionable *per se* (without proof of damage): (1) imputing that the plaintiff has committed a criminal offence punishable with imprisonment; (2) imputing to the plaintiff a contagious or infectious disease unfitting him for society; (3) imputing unchastity or adultery to a woman (Slander of Women Act 1891); (4) words calculated to disparage the plaintiff in any office, trade, calling, or profession. **Analysis:** Option A states that the oral statement imputed that P committed

theft – a criminal offence punishable with imprisonment (Imprisonment Act / IPC Section 379 provides imprisonment). This falls squarely within category (1). No proof of special damage is required. **Why other options are wrong:**

- **Option B:** Expressing an opinion about P's unpleasant personality does not fall within any category of slander actionable per se; it is merely an opinion on character and would require proof of special damage if actionable at all.
- **Option C:** Predicting P will fail in business is a prediction, not an imputation of a criminal offence, disease, or professional disparagement amounting to a slander per se category; special damage would need to be proved.
- **Option D:** Accurately reporting that P recovered from a minor seasonal illness is not defamatory at all; and even if it were slander, it does not fall within the contagious disease category (which requires an imputation of a *current* unfitting disease).

Final Answer: Imputing theft (an imprisonable criminal offence) is slander actionable per se – no proof of special damage needed. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q30

Q31.

Solution

Concept — Public Nuisance: Private Action Requires Particular (Special) Damage: Public nuisance is primarily a crime remediable by the Attorney-General or public authority. However, a private individual may bring a civil action for public nuisance if she can demonstrate that she has suffered *particular damage* – damage that is over and above, and different in kind from, that suffered by the public at large. The requirement of particular damage is the key to unlocking a private right of action. (*Benjamin v Storr* (1874); *Tate & Lyle Industries Ltd v GLC* [1983].)

Analysis: The chemical fumes constituted a public nuisance affecting all road users. P's sixty percent drop in business customers is specific, quantifiable, and qualitatively different from the general inconvenience suffered by ordinary road users (who merely had to take a different route or endure unpleasant fumes). P has suffered "particular damage" and can maintain a private civil action. **Why other options are wrong:**

- **Option A:** While the Attorney-General has primary standing, it is well established that a private individual can bring a civil action upon showing particular damage; the rule does not confine all remedies to public bodies.
- **Option B:** A relator action is one mechanism but not the only route; P can sue in her own name upon proof of particular damage.
- **Option C:** P is not required to also prove a separate private nuisance; particular damage from the public nuisance is sufficient.

Final Answer: Particular damage (P's specific and disproportionate loss of business) entitles P to maintain a private civil action. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q31

Q32.

Solution

Concept — Nuisance Created by a Stranger: Duty to Abate after Acquiring Knowledge: An occupier is not initially responsible for a nuisance created on his land by a trespassing stranger. However, once the occupier *knows* or *ought to know* of the nuisance and has a reasonable opportunity to abate it, he comes under a duty to take reasonable steps to remedy the situation. Failure to act after acquiring knowledge makes the occupier liable for the continuance of the nuisance. (*Sedleigh-Denfield v O'Callaghan* [1940] AC 880; *Goldman v Hargrave* [1967] AC 645.) **Analysis:** D did not create the nuisance – vandals did. However, D discovered the toxic waste the following morning. Despite knowing of the risk and having time to act, D did nothing for several weeks, during which the toxins seeped into P's land. Once D acquired actual knowledge, the duty to abate arose. D's inaction for several weeks constitutes a breach of that duty; D is liable for the continuing nuisance. **Why other options are wrong:**

- **Option A:** The initial absence of liability for the stranger's act is negated once D acquires knowledge and fails to act within a reasonable time.
- **Option C:** Prior knowledge of or acquaintance with the specific vandals is

irrelevant; the duty arises from knowledge of the nuisance, not knowledge of its creators.

- **Option D:** Both nuisance and negligence actions may be available on these facts; the question of nuisance liability is not displaced merely because a negligence claim also lies.

Final Answer: D acquired knowledge of the nuisance and failed to abate it; D is liable for the continuing nuisance. ⇒ $\boxed{\text{B}}$

Answer: (B) Go Back to Q32

Q33.

Solution

Concept — Private Nuisance: Locality Rule (Character of the Neighbourhood): In private nuisance, whether an interference with the use and enjoyment of land is unreasonable is assessed in context, including the character of the neighbourhood. What is a nuisance in an exclusively residential area may not be an actionable nuisance in an established industrial area. The principle is classically stated in *Sturges v Bridgman* (1879) 11 Ch D 852: "What would be a nuisance in Belgrave Square would not necessarily be so in Bermondsey." **Analysis:** D's

factory has operated lawfully in a designated industrial zone for over twenty-five years. The new residents moved into a residential estate built adjacent to the industrial zone, knowingly accepting proximity to industrial operations. The character of the neighbourhood is industrial. The dust and noise are consistent with that character. Under the locality rule, D is unlikely to be held liable in nuisance because the interference is commensurate with the nature of the area. **Why other**

options are wrong:

- **Option A:** There is no automatic legal hierarchy giving residential use priority over industrial use; each case is assessed in its neighbourhood context.
- **Option B:** Dust and noise can constitute private nuisance but whether they are unreasonable depends on locality and other factors; they are not inherently actionable.
- **Option D:** Prescriptive right to commit a nuisance requires the nuisance to have been actionable and uninterrupted for the prescription period; long-standing lawful industrial operations in an industrial zone do not give rise to a "right to pollute" by prescription.

Final Answer: The locality rule: the industrial character of the neighbourhood weighs against finding a nuisance by D's factory. ⇒ $\boxed{\text{C}}$

Answer: (C) Go Back to Q33

Q34.

Solution

Concept — Trespass to Land: Possession as Sufficient Title to Sue: The tort of trespass to land is founded on the protection of possession, not ownership. A person in lawful possession of land (such as a leaseholder, tenant, or even a licensee in actual occupation) has sufficient title to maintain an action in trespass against a wrongdoer who has neither a superior title nor any right to be on the land. The registered freehold owner is not the only party who may sue. (*Asher v Whitlock* (1865); *Berntt v Vancouver (City)* (Canada); general common law principle.) **Analysis:** P holds a valid lease and has been in continuous possession for four years. D is a stranger with no title and no connection to P. D's entry, excavation, and removal of soil are direct physical interferences with P's land. P, as lawful possessor, has the right to sue D in trespass regardless of the fact that a freeholder also exists. **Why other options are wrong:**

- **Option B:** Leaseholders have independent rights in tort against trespassers; they are not confined to contractual remedies against their landlord for third-party trespasses.
- **Option C:** There is no requirement to join the freeholder; P's possessory title is sufficient to maintain the action alone against a stranger.
- **Option D:** A possessor can recover both injunctions *and* damages in trespass; the claim for damages does not require proof of ownership.

Final Answer: Trespass protects possession; P as leaseholder has standing to sue D for trespass and recover damages. $\Rightarrow \boxed{A}$

Answer: (A) Go Back to Q34

Q35.

Solution

Concept — Trespass to Airspace: *Cuius Est Solum* Principle and Low-Altitude Overflights: The maxim *cuius est solum cujus est usque ad coelum et ad inferos* holds that ownership of land extends upwards indefinitely into the heavens and downwards to the centre of the earth. Modern law modifies this: ownership of airspace extends to the height reasonably necessary for the ordinary use and enjoyment of the land and the structures on it. Overflights at heights that interfere with the ordinary use of the land may constitute trespass to airspace. (*Bernstein of Leigh v Skyviews and General Ltd* [1978] QB 479; *Baron Bernstein* principle.) **Analysis:** The overflights occur at 45-60 feet – within the zone of airspace necessary for P's agricultural use and enjoyment of the farmland. The flights directly interfere with P's livestock and agricultural operations. The airline cannot claim an unlimited right to overfly at this low altitude; P may have a trespass to airspace claim. **Why other options are wrong:**

- **Option A:** The proposition that all airspace above private land is a public highway is incorrect; low-altitude airspace necessary for the use of the land belongs to the landowner.
- **Option B:** Trespass to land is not confined to surface intrusions; it extends to the protected airspace above the land.
- **Option C:** Legislation may confer immunity at cruising altitudes but not typically at the extremely low altitude (45-60 feet) that interferes with agricultural operations.

Final Answer: *Cuius est solum*: low-altitude overflights at 45-60 feet interfering with P's land use may constitute trespass to airspace. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q35

Q36.

Solution

Concept — Conversion: Strict Liability; Honest Mistake Is No Defence: Conversion is an intentional act of dealing with another person's chattel in a manner that is inconsistent with that person's right to possession, so as to deprive them of its use. Conversion is in substance a tort of strict liability with respect to good faith: the *intention* required is only to do the act itself (take, use, sell the goods), not an intention to interfere with a stranger's rights. An honest and genuine belief that the goods are one's own does not negate liability for conversion. (*Fowler v Hollins* (1875); *Brance v Finance Corp*.) **Analysis:** D intentionally picked up and used the laptop for six days. The act of taking and using P's laptop was deliberate – D was not acting involuntarily. That D believed it was his own laptop is an honest mistake, but it does not negate the intentional dealing with P's goods in a manner inconsistent with P's right to possession. D is liable in conversion. **Why other options are wrong:**

- **Option A:** Conversion does not require an intention to deprive the owner;

the intention to do the act (use the chattel) is enough. Honest mistake is irrelevant to liability.

- **Option C:** Negligence (failure to verify identity of the laptop) may also be present, but it is conversion – not merely negligence – because D intentionally exercised dominion over P's chattel for six days.
- **Option D:** An offer to return, made after six days of use, does not extinguish the completed act of conversion; it may be relevant to mitigation of damages but not to liability.

Final Answer: Conversion is strict; D's honest mistake is no defence to his intentional use of P's laptop for six days. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q36

Q37.

Solution

Concept — Motor Vehicles Act 1988: Constitution and Jurisdiction of MACT: Under Section 165 of the Motor Vehicles Act, 1988, the State Government may constitute Motor Accident Claims Tribunals (MACTs) for such areas as may be specified. A MACT shall consist of such number of members as the State Government may think fit. MACTs have exclusive jurisdiction to try all claims for compensation arising out of motor vehicle accidents, irrespective of the amount, and civil courts are debarred from entertaining such suits. Claimants must approach the MACT as the forum of first instance. **Analysis:** The correct description is that

a MACT is established by the State Government and its members are appointed by the State Government; it has exclusive original jurisdiction over all motor accident compensation claims in India. There is no minimum monetary threshold, and MACT is not merely an appellate body. **Why other options are wrong:**

- **Option A:** A MACT is not required to consist of a bench of three judicial officers; the composition is flexible. MACT has jurisdiction over all injury claims, not only fatal accident claims.
- **Option B:** There is no minimum monetary threshold of Rs. 1 lakh for MACT jurisdiction; the Tribunal hears all claims regardless of quantum.
- **Option D:** A MACT is a forum of original jurisdiction, not an appellate body over civil court decisions; appeals from MACT decisions go to the High Court.

Final Answer: MACT is constituted by the State Government and holds exclusive original jurisdiction over all motor accident compensation claims. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q37

Q38.

Solution

Concept — Multiplier Method for Fatal Accident Compensation: *Sarla Verma v DTC* (2009): The Supreme Court in *Sarla Verma v Delhi Transport Corporation* (2009) 6 SCC 121 standardised the multiplier method for computing compensation for loss of dependency in fatal accident claims under the Motor Vehicles Act, 1988. The method involves: (1) computing the deceased's annual income; (2) deducting the deceased's personal living expenses (one-third for a person with dependants, one-fourth for a larger family, etc.) to arrive at the annual dependency; and (3) multiplying that annual dependency by an age-related multiplier (representing the capitalised present value of the future stream of earnings, accounting for the deceased's remaining working life). **Analysis:** The multiplier

method produces a lump-sum award representing the present value of the total future dependency. It balances fairness to the dependants and the need to arrive at a lump sum that properly compensates without over-compensating (due to the accelerated receipt of future earnings). **Why other options are wrong:**

- **Option B:** The multiplier method is not based on salary earned while surviving in hospital, nor on a fixed factor of two; it applies to the projected future stream of dependency from the date of death.
- **Option C:** The multiplier method is specifically designed for and applied in *fatal accident* cases (loss of dependency); it is not confined to non-fatal injury cases.
- **Option D:** Gross last monthly salary multiplied by calendar months to retirement is a crude arithmetic calculation, not the multiplier method. Crucially, the multiplier method *requires* deduction of personal expenses and uses actuarial multipliers, not a simple month-count.

Final Answer: Multiplier = annual dependency (net income) $\times$ age-appropriate multiplier factor for present capitalised value. $\Rightarrow \boxed{A}$

Answer: (A) Go Back to Q38

Q39.

Solution

Concept — Consumer Protection Act 2019: Statutory Definition of "Deficiency": Section 2(11) of the Consumer Protection Act, 2019 defines "deficiency" as any fault, imperfection, shortcoming, or inadequacy in the quality, nature, and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service, and includes (a) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and (b) deliberate withholding of relevant information by such person to the consumer. **Analysis:** The definition in Option D is

the accurate statutory formulation. It covers fault, imperfection, shortcoming, or inadequacy in quality, nature, or manner of performance – whether mandated by law or undertaken by contract. This broad definition gives consumer forums wide latitude to find deficiency in service. **Why other options are wrong:**

- **Option A:** Economic loss from a service provider's insolvency is not the statutory definition of "deficiency"; insolvency may give rise to separate remedies.
- **Option B:** "Deficiency" is not limited to refusal to provide free services; it covers all failures in quality and manner of performance, paid or otherwise.
- **Option C:** A deficiency is not defined by the administrative status of a complaint before the Commission; it describes the quality of the service itself, not the procedural history of the complaint.

Final Answer: "Deficiency" under Section 2(11) CPA 2019 = fault, imperfection, shortcoming, or inadequacy in quality/nature/manner of performance. $\Rightarrow \boxed{\text{D}}$

$\boxed{\textbf{Answer: (D)}}$ **Go Back to Q39**

Q40.

Solution

Concept — Consumer Protection Act 2019: Pecuniary Jurisdiction of District Commission: Under Section 34 of the Consumer Protection Act, 2019, the District Consumer Disputes Redressal Commission has jurisdiction to entertain complaints where the value of goods or services paid as consideration does not exceed one crore rupees (Rs. 1,00,00,000). Above that limit, the complaint must be filed before the State Consumer Disputes Redressal Commission (up to Rs. 10 crore) or the National Consumer Disputes Redressal Commission (above Rs. 10 crore). **Analysis:** P's flat cost Rs. 85 lakh, which is below the Rs. 1 crore threshold. The complaint therefore falls within the pecuniary jurisdiction of the District Commission. P is correctly advised to file before the District Commission. **Why other options are wrong:**

- **Option A:** The Rs. 20 lakh figure reflected the old CPA 1986 limit for District Forums; the CPA 2019 raised the threshold to Rs. 1 crore.
- **Option C:** The District Commission does not have unlimited jurisdiction; pecuniary limits strictly define which forum is appropriate.
- **Option D:** The Consumer Protection Act 2019 does not bifurcate jurisdiction based on whether the complaint involves goods or services; both types of complaints are heard at all levels, subject only to pecuniary limits.

Final Answer: District Commission jurisdiction covers values up to Rs. 1 crore; Rs. 85 lakh flat falls within this limit. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q40

Answer Key

Q	Ans	Q	Ans	Q	Ans	Q	Ans	Q	Ans
1	C	2	A	3	D	4	B	5	C
6	A	7	D	8	B	9	C	10	A
11	D	12	B	13	C	14	A	15	D
16	B	17	C	18	A	19	D	20	B
21	C	22	A	23	D	24	B	25	C
26	A	27	D	28	B	29	C	30	A
31	D	32	B	33	C	34	A	35	D
36	B	37	C	38	A	39	D	40	B