

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LL.B DEGREE PROGRAMME -LEVEL 6
 CONTINUOUS ASSESSMENT TEST 1 – 2022/2023
 LLU6715- LABOUR LAW
 DURATION – 01 HOUR



Date – 27.09.2023

Time – 3.30 pm- 4.30 pm

Answer one question only.

Candidates will be penalized for illegible handwriting.

- CFK (PVT) Ltd is a well-known restaurant chain established in Colombo having many branches island wide. Asitha has been working as a delivery agent of CFK's Rajagiriya outlet since January 2021. According to his agreement with the CFK, he is required to deliver foods from the CFK outlets to the customers in given areas between 4.30 p.m. to 10.30 p.m. He is allowed to engage in any other work in the morning hours, but he needs to report to the work at 4.00 p.m. Asitha uses his own motorbike for the delivery services. The Company logo is fixed on the motorbike. The Company pays for fuel and maintenance of the motorbike. He uses the food delivery basket given by the Company. Asitha is required to wear CFK uniform during his delivery hours. Asitha does not sign the attendance register which the other employees of the restaurant sign every day. Asitha is not allowed to delegate his work to a third party.

Recently Asitha had an accident while delivering CFK foods. He claimed compensation from the Company for the accident. However, the Company had refused to pay compensation to Asitha on the basis that he is not a workman of the Company.

Asitha seeks your advice as to whether he is a workman of the Company or an independent contractor. Advise Asitha citing relevant legal authorities

(20 Marks)

- "The general principle relating to probationary employees is that the employer has the right to terminate. The only exception to this rule is where the employee can prove *mala fide* of the employer"

-Egalaheewa. S, *A General Guide to Sri Lanka Labour Law*, (2018, 1st edition, Stamford Lake Pvt.Ltd,) p. 529

Do you agree with the above statement?

Give reasons for your answer supporting with relevant statutory provisions and case law.

(20 Marks)

-Copyright reserved-