

ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය  
 මානව ශාස්ත්‍ර හා සමාජ විද්‍යා පීඨය  
 නීති අධ්‍යයන දෙපාර්තමේන්තුව  
 නීතිවේදී උපාධි පාඨමාලාව - 4 වන මට්ටම  
 අඛණ්ඩ ඇගයීම් පරීක්ෂණය II - 2017/2018  
 ගිවිසුම් නීතිය - LLU4805/LWU2311  
 කාලය පැය 1යි



දිනය - 2019 අගෝස්තු 09 වේලාව - පෙ.ව. 9.00 පෙ.ව.10.00

**මුලු ප්‍රශ්න සංඛ්‍යාව - 02**

**අපැහැදිලි අත්අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.  
 එක් (01) ප්‍රශ්නයක් සඳහා පමණක් පිළිතුරු සපයන්න.**

1. යාත්‍රා ට්‍රාවල්ස් යනු පර්ල් දිවයිනේ තිබෙන සංචාරක සේවා සපයන සහ සංචාරක ඒජන්සියක් ලෙස කටයුතු කරන ප්‍රමුඛ පෙලේ ආයතනයකි. ලෝකය පුරා විවිධ තැන්වලට සිදුකරන වන්දනා සංචාර එම ඒජන්සිය විසින් ආවරණය කරයි. 'ඩයමන්ඩ් දූපතේ පූජනීය ස්ථාන 7ක් වෙත කෙරෙන දින 10ක උතුම් වන්දනා ගමන' යන්න යාත්‍රා ට්‍රාවල්ස් විසින් සපයනු ලබන පවුල් සංචාර අතරින් වැඩිම ඉල්ලුමක් තිබෙන සංචාරක පැකේජය වේ. 'සංචාරය සඳහා අවශ්‍ය සියලු විකට්පත් ද ඇතුලත්ව ප්‍රවාහන පහසුකම් ලබාදීම, තරු තුනේ හෝටල්වල නවාතැන් සැපයීම, පවුලේ සාමාජික ප්‍රමාණයට ගැලපෙන ලෙස නවාතැන් සැපයීම, සෑම පුද්ගලයෙක්ටම මෙට්ටයක් සහ දිනකට කෑම වේල් තුනක් ලබාදීම' මෙම සංචාරක පැකේජය තුළ අන්තර්ගත පහසුකම් වේ. පස් දෙනෙකුගෙන් යුක්ත පෙරේරා මහතා සහ මහත්මියගේ පවුල 'ඩයමන්ඩ් දූපතේ පූජනීය ස්ථාන 7ක් වෙත කෙරෙන දින 10ක උතුම් වන්දනා ගමන' පැකේජය වෙත කරවා ගත්තේය.

පළමු දින දෙකේ සහ අවසාන දිනයේ දිනකට කෑම වේල් තුන බැගින් සපයනු ලැබුවද, ඉතිරි දින හතරේ සපයන ලද්දේ උදෑසන හා රාත්‍රී ආහාර පමණි. කුසගින්න නිසා වෙහෙසට පත්ව සිටි පෙරේරා මහතා සහ මහත්මියගේ දරු තිදෙනා පූජනීය ස්ථාන වෙත කල සංචාරයන් වලදී පසුපුටු අතපත්වීය. එක් පූජනීය ස්ථානයක් වෙත යාම සඳහා කන්දක් නැගීමට තිබුණු අතර මෙම කණ්ඩායමට ඒ වෙනුවෙන් ජීප් රථයක් කුලියට ගැනීමට සිදුවිය. ඒ සඳහා අදාල වියදම දැරීම යාත්‍රා ට්‍රාවල්ස් ආයතනය ප්‍රතික්ෂේප කළේය.

සංචාරයේදී, කණ්ඩායම් සාමාජිකයින් වෙත තරු තුනේ හෝටල්වල නවාතැන් පහසුකම් ලැබුණේ නැත. ඒ වෙනුවට යාත්‍රා ට්‍රාවල්ස් විසින් වෙන් කොට තිබුණේ අඩු පහසුකම් සහිත තරු එකේ හෝටලයකි. පෙරේරා මහතා සහ මහත්මියගේ පවුලට ලැබුණු කාමරයේ තිබුණේ මෙට්ට දෙකක් පමණි. මෙට්ට සහ පහසුකම්වල අඩුපාඩු නිසා පවුලේ සාමාජිකයින්ට නිසි නින්දක් ලැබුණේ නැත. එම නිසා පවුලේ දරුවන් උණෙන් සහ ගාර්ට් ක වේදනාවලින් පීඩා වින්දහ. සංචාරයේ අග භාගය වන විට දරුවන්ගේ තත්වය වඩාත් අයහපත් අතට හැරී තිබුණි.

**THE OPEN UNIVERSITY OF SRI LANKA  
FACULTY OF HUMANITIES AND SOCIAL SCIENCES  
DEPARTMENT OF LEGAL STUDIES  
LL.B DEGREE PROGRAMME- LEVEL IV  
SECOND CONTINUOUS ASSESSMENT TEST- 2017/2018  
LAW OF CONTRACT – LLU4805 /LWU2311  
DURATION- (01) ONE HOUR**

00017



Date: 09<sup>th</sup> August 2019

Time: 09.00 a.m- 10.00 a.m

Total number of questions 02  
Students will be penalised for illegible hand writing

Answer **(01) One** question only.

1. Yatra Travels is a leading tour operator and travel agency in Island Pearl. It covers the famous pilgrimage tours around the world. '10 days holy tour to 7 pilgrimages to Island Diamond' is the most sought after family tour of Yatra Travels. This tour package covers the following facilities ; 'transport including all tickets of tour; accommodation at three star hotels; accommodation based on the size of family, every person will be provided with a mattress; and meals for three times a day'. The family of Mr. and Mrs. Perera of five members booked the '10 days holy tour to 7 pilgrimages to Island Diamond'.

Even though three meals a day were provided on first two days and the last day, only breakfast and dinner were given on the rest of four days. The three children of Mr. and Mrs. Perera did not enjoy the sight seeing of pilgrimages due to hunger. In order to visit one pilgrimage the group had to hire a jeep to climb in hill. Yatra Travels refused to pay the cost.

During the tour, group members were not provided with three-star hotels. Instead, one-Star hotels which had less amenities were booked by Yatra Travels. The room provided to family of Mr. and Mrs. Perera had only two mattresses and the family members did not have sound sleep due to lack of mattresses and facilities. Thus, the children developed pain and fever. In the end of the tour the condition of children got worsened.

On the seventh day of the tour, Yatra Travels cancelled the visit to two pilgrimages. It had only covered five pilgrimages.

Mr. and Mrs. Perera decided to claim compensation for the lack of facilities and breach of the terms of the holy tour package of Yatra Travels. However, Yatra Travels denied any liability on the basis of the following provision mentioned in a booklet containing holy tour details, distributed before the tour was started; ' Yatra Travels will not be liable for lack of facilities and inconveniences occur during the tour.'

Advise Mr. and Mrs. Perera with reference to the law relating to terms of contracts.

(20 Marks)

සංචාරයේ සත් වන දවසේ දී පූජනීය ස්ථාන දෙකක් වෙත නියමිතව තිබුණු ගමන් අවලංගු කිරීමට යාත්‍රා ට්‍රැවල්ස් කටයුතු කළේය. ඒ අනුව ගමන තුළ ආවරණය කරනු ලැබුවේ පූජනීය ස්ථාන පහක් පමණි.

යාත්‍රා ට්‍රැවල්ස් විසින් සැපයුම් කල උතුම් වන්දනා ගමන් පැකේජයේ ගිවිසුම් නියම උල්ලංඝණය කිරීම සහ පහසුකම් වල තිබුණු අඩුපාඩු යන කරුණු මත වන්දි ඉල්ලීමට පෙරේරා මහතා සහ මහත්මිය තීරණය කළහ. කෙසේ වුවද, සංචාරය ආරම්භ වීමට පෙර බෙදා හරින ලද, වන්දනා ගමනේ විස්තර අන්තර්ගත පොත් පිංචක අන්තර්ගත වූ 'සංචාරය අතරතුර සිදුවන පහසුකම් මදිවීම් හා අපහසුතා සම්බන්ධයෙන් යාත්‍රා ට්‍රැවල්ස් වග කියනු නොලැබේ' යන ප්‍රතිපාදනය මත පදනම්ව යාත්‍රා ට්‍රැවල්ස් කිසිදු වගකීමක් භාර ගැනීම ප්‍රතික්ෂේප කළේය.

ගිවිසුම් නියම හා සම්බන්ධ නීතිය කෙරෙහි අවධානය යොමු කරමින් පෙරේරා මහතා සහ මහත්මියට උපදෙස් දෙන්න.

(ලකුණු 20)

2. ගිවිසුම් කෙරෙහි බලපාන සාධක හා සම්බන්ධ පහත දැක්වෙන ප්‍රකාශ අතුරින් ඕනෑම දෙකක් (02) තෝරාගෙන පැහැදිලි කරන්න. ඔබගේ පැහැදිලි කිරීම් නඩු තීන්දු නීතිය ආශ්‍රයෙන් සිදුකල යුතුය.

අ) 'ගිවිසුමකට එළඹීම උදෙසා කරනු ලැබෙන සියලු තර්ජනයන් උත්තර්ජනයන් ලෙස සැලකිය නොහැක'

ආ) 'වෙළඳ කටයුතු සීමා කෙරෙන ගිවිසුම්, යම් පුද්ගලයෙකුට ජීවනෝපාය සපයා ගැනීමට තිබෙන අයිතිය අසාධාරණ ලෙස සීමා කරයි'

ඇ) 'නිශ්චලතාවය අවනිදේශනයක් ලෙස සැලකිය නොහැක'

(ලකුණු 20)

- හිමිකම් අවිරණ -

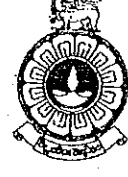
2. Explain any **two (02)** of the following statements relating to factors affecting contract. Illustrate your answer with case law.

- a) 'Not all threats to enter into a contract will amount to duress'
- b) 'A contract in restraint of trade imposes unfair restrictions on a person's right to earn a living'
- c) 'Silence does not amount to misrepresentation'

(20 Marks)

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இலங்கை திறந்த பல்கலைக்கழகம்  
 மானுடவியல் மற்றும் சமூக விஞ்ஞானங்கள் பீடம்  
 சட்டக்கற்கைகள் திணைக்களம்  
 சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் - மட்டம் 4  
 தொடர் மதிப்பீட்டுப் பரீட்சை II - 2017/18  
 LWU 2311/LLU 4805 - ஒப்பந்தச் சட்டம்  
 காலம் : ஒரு (01) மணித்தியாலம்



திகதி : 09.08.2019

நேரம் : மு.ப 09.00- மு.ப 10.00

மொத்த வினாக்களின் எண்ணிக்கை - 02  
 தெளிவற்ற கையெழுத்திற்கு புள்ளிகள் குறைக்கப்படும்.

ஒரு (01) வினாவிற்கு மாத்திரம் விடையளிக்க.

1. “யாத்ரா டிரவல்ஸ்” என்பது பேர்ள் தீவின் முன்னணியில் உள்ள சுற்றுப்பயணங்களை இயக்கும் பயண முகவர் ஆகும். இது உலகெங்கும் உள்ள பிரபலமான புனிதத் தலயாத்திரைப் பயணங்களைக் கொண்டுள்ளது. “டயமண்ட் தீவிற்கான ஏழு புனித வழிபாட்டுத்தலங்களின் பத்து நாட்களுக்கான புனித தலயாத்திரை” என்பது குடும்பங்களால் அதிகமாக நாடப்படும் யாத்ரா டிரவல்ஸ் இல் உள்ள பயண ஏற்பாடு (Tour Package). ஆகும். இந்தப் பயண ஏற்பாடு பின்வரும் வசதிகளை உள்ளடக்குகிறது; “பயணத்திற்கான சகல பயணச்சீட்டு கட்டணங்களையும் உள்ளடக்கிய போக்குவரத்து; மூன்று நட்சத்திர ஹோட்டல்களில் தங்குமிடம் ; குடும்பத்தின் அளவைப் பொறுத்து தங்குமிடம் ; ஒவ்வொரு நபருக்கும் தனியான மெத்தைப்படுக்கை மற்றும் ஒரு நாளின் மூன்று வேளைக்குமான உணவுகள்”. ஐந்து உறுப்பினர்களைக் கொண்ட திரு. திருமதி பெரேரா குடும்பம் ‘டயமண்ட் தீவிற்கான ஏழு புனித வழிபாட்டுத்தலங்களின் பத்து நாட்களுக்கான புனிதத் தலயாத்திரைக்கு’ பதிவு செய்தனர்.

முதல் இரு நாட்களும், இறுதி நாளும் மூன்று வேளைகளும், உணவுகள் வழங்கப்பட்ட போதிலும், எஞ்சிய நான்கு நாட்களும் காலையுணவும், இரவு உணவும் மட்டுமே வழங்கப்பட்டது. திரு. திருமதி பெரேராவின் மூன்று பிள்ளைகளும் பசியின் காரணமாக புனிதத்தலங்களைப் பார்வையிடுதலை இரசிக்கவில்லை. ஒரு புனிதத்தலத்தைத் தரிசிக்க மலையின் மீது ஏறி பயணிப்பதற்காக ஜீப் வண்டி ஒன்றை வாடகைக்கு எடுப்பதற்கு குழுவினருக்கு நேர்ந்தது. இதற்கான பணத்தை செலுத்துவதற்கு யாத்ரா டிரவல்ஸ் மறுத்தது.

பயணத்தின் போது, குழு உறுப்பினர்களுக்கு மூன்று நட்சத்திர ஹோட்டல்கள் வழங்கப்படவில்லை. மாறாக குறைந்த செலவுகளைக் கொண்ட ஒரு - நட்சத்திர ஹோட்டல்கள் யாத்ரா டிரவல்ஸ் இனால் பதிவு செய்யப்பட்டது. திரு. திருமதி பெரேரா

**THE OPEN UNIVERSITY OF SRI LANKA**  
**FACULTY OF HUMANITIES AND SOCIAL SCIENCES**  
**DEPARTMENT OF LEGAL STUDIES**  
**LL.B DEGREE PROGRAMME- LEVEL IV**  
**SECOND CONTINUOUS ASSESSMENT TEST- 2017/2018**  
**LAW OF CONTRACT – LLU4805 /LWU2311**  
**DURATION- (01) ONE HOUR**



Date: 09<sup>th</sup> August 2019

Time: 09.00 a.m- 10.00 a.m

Total number of questions 02  
 Students will be penalised for illegible hand writing

Answer **(01) One** question only.

1. Yatra Travels is a leading tour operator and travel agency in Island Pearl. It covers the famous pilgrimage tours around the world. '10 days holy tour to 7 pilgrimages to Island Diamond' is the most sought after family tour of Yatra Travels. This tour package covers the following facilities ; 'transport including all tickets of tour; accommodation at three star hotels; accommodation based on the size of family, every person will be provided with a mattress; and meals for three times a day'. The family of Mr. and Mrs. Perera of five members booked the '10 days holy tour to 7 pilgrimages to Island Diamond'.

Even though three meals a day were provided on first two days and the last day, only breakfast and dinner were given on the rest of four days. The three children of Mr. and Mrs. Perera did not enjoy the sight seeing of pilgrimages due to hunger. In order to visit one pilgrimage the group had to hire a jeep to climb in hill. Yatra Travels refused to pay the cost.

During the tour, group members were not provided with three-star hotels. Instead, one-Star hotels which had less amenities were booked by Yatra Travels. The room provided to family of Mr. and Mrs. Perera had only two mattresses and the family members did not have sound sleep due to lack of mattresses and facilities. Thus, the children developed pain and fever. In the end of the tour the condition of children got worsened.

On the seventh day of the tour, Yatra Travels cancelled the visit to two pilgrimages. It had only covered five pilgrimages.

Mr. and Mrs. Perera decided to claim compensation for the lack of facilities and breach of the terms of the holy tour package of Yatra Travels. However, Yatra Travels denied any liability on the basis of the following provision mentioned in a booklet containing holy tour details, distributed before the tour was started; ' Yatra Travels will not be liable for lack of facilities and inconveniences occur during the tour.'

Advise Mr. and Mrs. Perera with reference to the law relating to terms of contracts.

(20 Marks)

குடும்பத்தினருக்கு வழங்கப்பட்ட அறையானது இரு மெத்தைப் படுக்கைகளை மட்டும் கொண்டிருந்ததுடன், மெத்தைப் படுக்கைகள் மற்றும் வசதிகள் என்பன குறைவாகக் காணப்பட்டமையினால் குடும்ப உறுப்பினர்கள் போதுமான தூக்கத்தைப் பெற முடியவில்லை. இதனால், பிள்ளைகள் காய்ச்சல் மற்றும் வலிக்கு உள்ளாகினர். பயண முடிவின் போது பிள்ளைகளின் நிலை மோசமடைந்தது.

பயணத்தின் ஏழாம் தினத்தன்று யாத்ரா டிரவல்ஸ் இரு புனித தல யாத்திரைகளை இரத்துச் செய்தது. அது ஐந்து புனித தல யாத்திரைகளை மட்டுமே நிறைவு செய்திருந்தது.

திரு.திருமதி பெரேரா அவர்கள் யாத்ரா டிரவல்ஸ் இன் புனித தல யாத்திரைப் பயண ஏற்பாட்டின் வசதிக் குறைபாடுகள் மற்றும் வாசகங்களின் மீறல் என்பவற்றிற்காக நடவடிக்கை கோரத் தீர்மானித்தனர். எவ்வாறாயினும், யாத்ரா டிரவல்ஸ் ஆனது, பயணம் ஆரம்பிக்க முன்னர் விநியோகிக்கப்பட்ட புனிதத் தலயாத்திரை தொடர்பான விடயங்கள் உள்ளடங்கிய கையேட்டில் காணப்படும் பின்வரும் பிரிவின் அடிப்படையில் எவ்வித பொறுப்புடைமையையும் ஏற்றுக் கொள்ள மறுத்தது; “பயணத்தின் போது ஏற்படும் வசதி குறைபாடுகள் மற்றும் அசௌகரியங்கள் என்பவற்றிற்கு யாத்ரா டிரவல்ஸ் பொறுப்பேற்காது.”

திரு. திருமதி பெரேராவிற்கு ஒப்பந்த வாசகங்களுடன் தொடர்புடைய சட்டத்தினை எடுத்துக்காட்டி அறிவுரை வழங்குக.

(20 புள்ளிகள்)

2. ஒப்பந்தம் ஒன்றினைப் பாதிக்கும் காரணிகள் தொடர்பான பின்வரும் கூற்றுக்களில் ஏதேனும் இரண்டினை (02) விளக்குக. உமது விடையைத் தீர்ப்புச் சட்டங்களுடன் எடுத்துக்காட்டுக.

அ) ‘ஒப்பந்தம் ஒன்றில் ஈடுபடுவதற்கான சகல அச்சுறுத்தல்களும் பயமுறுத்தல் ஆகாது.’

ஆ) ‘வணிகத்தை கட்டுப்படுத்தும் ஒப்பந்தம் ஒன்று நபர் ஒருவரின் வாழ்வதற்கான உழைக்கும் உரிமையின் மீது நியாயமற்ற மட்டுப்பாடுகளைச் சுமத்துகிறது.’

இ) ‘மௌனம் பிறழ்பகர்வு ஆகாது’

(20 புள்ளிகள்)

- பதிப்புரிமை பெற்றது -

2. Explain any **two (02)** of the following statements relating to factors affecting contract. Illustrate your answer with case law.

- a) 'Not all threats to enter into a contract will amount to duress'
- b) 'A contract in restraint of trade imposes unfair restrictions on a person's right to earn a living'
- c) 'Silence does not amount to misrepresentation'

(20 Marks)

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