

THE OPEN UNIVERSITY OF SRILANKA  
 MASTER OF TECHNOLOGY IN INDUSTRIAL  
 ENGINEERING PROGRAMME  
 FINAL EXAMINATION- 2011  
 LWJ 7101/LWP 2101- THE LAW AND INDUSTRY  
 DURATION: THREE (03) HOURS



Date : 28<sup>th</sup> February 2011

Time : 9.30 a.m. – 12.30 p.m.

Answer FIVE question only with at least ONE from each SECTION.

SECTION –A

01. Punchibanda registered his marriage to Tikirimenike under the General law. Two years after his marriage he formed a relationship with Daisy and wish to divorce Tikirimenike. However he failed to obtain a divorce from Tikirimenike. Punchibanda and Daisy converted to Islam and Punchibanda contracted a second marriage with Daisy. Discuss the validity of the second marriage citing relevant case law.

(20 marks)

02. a) What do you mean by the term “Fundamental Rights”? Identify the Fundamental Rights under 1978 Constitution of Sri Lanka with the limitations, if any, in regard to each right.

(11 marks)

- b) Explain the meaning of the term ‘Source of Law’ and discuss at least three sources of law in Sri Lanka.

(09 marks)

SECTION –B

03. a) What are the legal requirements that should be fulfilled to make a valid offer? Briefly explain.

(05 marks)

- b) Discuss the different rules of acceptance that have been developed by the judiciary in accepting an offer.

(10 marks)

- c) Explain the difference between *justa causa* and consideration.

(05 marks)

04. Namal operates a small scale garment industry in Nittambuwa. He decided to expand his business in the near future. As a preliminary step in the process of business expansion he wanted to put up a building on his land. Nayeem Construction (Pvt) Ltd has undertaken the building construction. At the time of negotiations Namal clearly stated all the specifications for the building and gave all the necessary instructions to the construction company. One of the major conditions of the contract was that the building should have a lunch room and five was rooms for use by the employees of the garment factory. The contract was signed on 20<sup>th</sup> March 2010. The date of completion of the construction was 31<sup>st</sup> December 2010. Nayeem Construction (Pvt) Ltd handed over the building on the agreed date. However the construction company failed to build the lunch room.

Namal refuses to pay for the services rendered by Nayeem Construction (Pvt) Ltd.

Discuss the legal position in the above instance.

(20 marks)

### SECTION – C

05. Mr. Kingsley opened his house and garden to the public one day. All proceeds were to be donated to the local church restoration fund. A notice at the entrance read: “ All visitors enter these promises at their own risk.” Mr. Kingsley’s private quarters were not open to the public and notices were clearly placed on doors saying, ‘Private, closed to visitors.’ In the grounds were the ruins of an earlier house. A notice by these ruins read “This building is dangerous. Visitors are asked to keep their children under control.”

Victor visited the house, accompanied his small son Peter. While walking round the ruins, Peter struggled free of Victor’s grasp and squeezed under a railing. He fell six feet to a lower level and suffered severe cuts and bruises and a broken arm. When Victor saw that he was injured, he ran for help into the main house and through a door marked “private, closed to visitors.” He was attacked by an Alsatian dog which Mr. Kingsley’s Gardner Andrew, had without Mr. Kingsley’s knowledge, been training as a guard dog. The dog caused Victor severe injuries.

Advise victor and Peter with special reference to occupiers liabilities and decided cases.

(20 marks)

06. Saman is a trainee fireman with the Western Council Fire Brigade. While undergoing instruction in driving a fire engine, he was ordered by his instructor Thomas to drive at high speed along a country road with his blue lights flashing and bell sounding. Saman could see that the driver of the car ahead, Uma had become agitated, but he kept going. Uma panicked while trying to make room for the fire engine and collided with a lamp post. Uma and her passenger Violet were both injured. They were taken to a nearby hospital. However, there had been a major railway accident a short time earlier and the

hospital was unable to admit other casualties. Uma was therefore removed to another hospital six miles away; the hospital was unable to save her sight, but this would have been possible if she had received prompt treatment. Violet was not so badly hurt but was taken by another ambulance to another hospital. On the way the ambulance was involved in another accident (without negligence on anyone's part) and Violet sustained two broken legs.

Advise Uma and Violet with special reference to negligence and causation.

(20 marks)

**SECTION -D**

07. Kent & Joe is a private garment factory which undertook to provide a large consignment of winter clothing to shop in New Zealand. Due to a problem in obtaining raw materials in time, there was a delay in meeting the deadline and therefore they have no alternative but to employ their female workers in the night. The manager of the factory objects to this because he says that to do so is an offence under the law.

Assume that you are the Legal Adviser to the factory. What would be your advice to Kent & Joe to overcome this problem?

(20 marks)

- 08 Write notes on any **two** of the following:
- a) Fixed term employment and casual employment.
  - b) The difference between a probationer and an apprentice.
  - c) The difference between an employee and an independent contractor

(20 marks)

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