



EX7106 - The Law and the Construction Industry

FINAL EXAMINATION - 2007

Time Allowed : Three Hours

Date: 2008 - 05 - 02 (Friday)

Time: 0930 - 1230 hrs

Answer any Five (05) questions.

- Q1. Kandiah was born in Jaffna in 1940 and lived there for many years. He married a Jaffna woman in 1965. In 1970 he started a business in Matara and resided there continuously. He bought properties in Matara and built a house on the premises. He seldom visited Jaffna. He died at Matara in 1995.
Describe the system of law that would apply to regulate the distribution of his property.
- Q2. The Judicative Act (1978) and the Constitution determine the judicial structure of Sri Lanka. But our judicial system is hierarchical, and does not afford a satisfactory system for dispute settlement. Comment in respect to
- (i) Mediation Boards
 - (ii) Labour tribunals
 - (iii) Dispute Adjudicator Boards set up between constituting parties.
- Q3. "A" wished to acquire from the "B Company Ltd" a new van on hire purchase terms. After considerable correspondence, "A" gave a written order for a particular type of van, which included the words "This order is given on the understanding that the balance of purchase price can be obtained on hire-purchase terms over a period of two years" The order was accepted by "B company Ltd" but the hire purchase terms were never specifically determined. There was a wide variety of hire purchase agreements and nothing to indicate which of them that the parties favoured.
"B company Ltd" later refused to provide the van, and "A" sued for damages for non-delivery. Can "A" succeed? Give reasons for your answer.
- Q4. Explain
- (i) Mutual Mistake
 - (ii) Unilateral Mistake
 - (iii) Common Mistake
- Giving an example for each case.
- Q5. What do you understand by Delictual liability? Give your answer with reference to contractive liability.
- Q6. Explain with illustrations the statement "no person can complain of an act which he or she has expressly or impliedly consented to".
What are the three general principles that could be discovered from the above? Give an illustration for one of the above general principles.
- Q7. How do you distinguish between an employee and an independent contractor? What tests would you apply to determine whether employer and employee relationship exists?
- Q8. Write short notes on
- i) Collective Agreement
 - ii) Conciliation by the Commissioner of labour or his authorized officer
 - iii) Voluntary Arbitration.
 - iv) Compulsory Arbitration.

