

THE OPEN UNIVERSITY OF SRI LANKA
 Department of Civil Engineering
 Construction Management Programme - Level 7
 Post Graduate Diploma
CEM7106- Law and the Construction Industry
FINAL EXAMINATION - 2011/2012
 Time Allowed: Three (03) Hours



Date: 04-03-2012 (Sunday)

Time: 0930 - 1230 hrs.

Answer any Five (05) questions.

Q1

- (i) "Roman Dutch Law is considered as the Common Law of Sri Lanka". How do you justify this statement? Give reasons.

(10 marks)

- (ii) Write a note on the Institutes that create Law in Sri Lanka.

(10 marks)

Q2

Perera acquired a painting done by a famous painter A. On 2nd May he sent a telex message to Silva, a collector of paintings that he was prepared to sell the painting done by A for Rs. 240,000 but that he must receive an answer within seven days. Silva replied immediately by telex stating that he was willing and that he would pay for it in monthly installments of Rs. 20,000 each.

On 3rd May Silva received a telephone message from Perera that he would prefer six monthly payments of Rs. 40,000 for the painting. The following day Silva sent a letter to Perera which stated "I agree to pay monthly payments. Please arrange for the delivery of the painting on 10th May". Unfortunately Silva's letter reached Perera on 12th May.

On 11th May, in response to a magazine advertisement Silva contacted another seller Fernando who had advertised for the sale of a painting done by B and left a message on his answering machine stating that he would buy the painting done by B for Rs. 200,000.

On 15th May, both Perera and Fernando arrived at Silva's office, each claiming that Silva was contractually bound to buy their respective paintings. As Silva had been informed that morning by his accountant that his financial situation is not very sound, Silva does not wish to buy either painting.

Advise Silva.

(20 Marks)

Q3

- (i) What are the requirements for the formation of a valid contract under the law of contract? Explain.

(10 Marks)

- (ii) What are illegal contracts? Explain.

(10 Marks)

Q4

- (i) Explain the following giving examples:

(a) Mutual mistake

(03 Marks)

(b) Unilateral mistake

(03 Marks)

(c) Common mistake

(03 Marks)

- (ii) Perera booked a room at a hotel for five days. He paid the room charges at the reception and went to his room. When he entered the room he saw a notice to the effect that the hotel management is not liable for lost or stolen articles of the guests unless they are handed over to the management for safe custody. Perera lost his purse with Rs. 20,000 in it. He seeks your advice to sue the hotel. How would you advise? (11 Marks)

Q5

- (i) How would the law deal with an Engineer who carelessly gives a professional opinion which results in,

(a) harm to persons or damage to buildings constructed according to that opinion.

(10 Marks)

(b) purely financial loss unaccompanied with physical damage.

- (ii) "A person has to establish three requirements for claiming legal relief in the form of compensation for damages". What are these requirements?

(10 Marks)

Q6

- (i) What are the 'tests' developed by the Courts over the years to ascertain the 'nature of employment'? Explain.

(10 Marks)

- (ii) Write a note on the common employment categories existing in Sri Lanka.

(10 marks)

Q7

- (i) Under what circumstances the Termination of Employment of Workmen (Special Provisions) Act does not apply. Explain.

(10 Marks)

- (iii) Briefly explain the defenses to the rule in *Rylands V Fletcher*.

(10 Marks)

Q8

Write short notes on the following:

- (a) Collective Agreement

(05 Marks)

- (b) Voluntary Arbitration

(05 Marks)

- (c) Public Nuisance

(05 Marks)

- (d) Contributory Negligence

(05 Marks)