



**CEM7106 - The Law and the Construction Industry**  
**FINAL EXAMINATION - 2013/2014**

Time Allowed : Three Hours

Date: 2014 - 08 - 17 (Sunday)

Time: 0930 - 1230 hrs

Answer any Five (05) questions.

**Q1.**

- (i) Write a note on the scope and application of the personal laws in Sri Lanka with special reference to Tesawalamai.

(10 Marks)

- (ii) "Roman Dutch Law is considered as the common law of Sri Lanka". Do you agree with this statement? Comment.

(10 Marks)

**Q2.**

- (i) What are the institutions that create law in Sri Lanka? Explain.

(10 Marks)

- (ii) Explain the requirements for the formation of a valid contract.

(10 Marks)

**Q3.**

- (i) Sarath is a tenant of a flat owned by Nimal. Ten days ago Sarath received a letter from Nimal stating that that Nimal was 'interested in selling' his flat and requesting Sarath to 'let him know' if Sarath was willing to buy the flat for Rs. 2,000,000/-. Three days later Sarath posted a letter to Nimal in which he agreed to buy the flat for the price stated in Nimal's letter. After receiving Sarath's letter, Nimal telephoned Sarath and informed him that he had decided not to sell the flat. Sarath seeks your advice as to whether he has a contract with Nimal for the sale of the flat. How would you advise?

(10 Marks)

- (ii) Explain the two terms 'Causa' and 'Consideration'.

(10 Marks)

**Q4.**

- (i) Explain the following terms giving examples.

- (a) Mutual mistake
- (b) Unilateral mistake
- (c) Common mistake

(12 Marks)

- (ii) 'A contract could be invalidated due to certain factors'. What are these factors? Explain briefly.

(08 Marks)



**Q5.**

- (i) Saman decides to watch a film at Regal Cinema and pays Rs. 375/= for a balcony ticket. At the entrance to the balcony, a prominently displayed notice states that the proprietors of the cinema are not liable for any injury sustained by patrons while being in the cinema. As a result of sitting on a defective chair, Saman suffers injuries. Discuss the liability, if any, of the proprietors of the cinema. Would your answer be different if the notice of exemption is contained at the back of the cinema ticket in English?

(10 Marks)

- (ii) What is meant by 'Capacity of parties to Contract'? Explain.

(10 Marks)

**Q6**

- (i) Under what circumstances would an employer be liable for the acts of a servant? Explain.

(10 Marks)

- (ii) Piyal falls into an unprotected trench excavated by A&B Company on a main road within the municipal limits of Kotte. Piyal fractures his leg due to the fall. Discuss the liability, if any, of the Company, and the relevant municipal authority. What difference would it make to your analysis if the trench had been protected?

(10 Marks)

**Q7.**

- (i) What are the tests developed by the Courts to distinguish independent contractors from employees? Explain.

(10 Marks)

- (ii) Briefly explain the following types of employment.

- (a) Probationer
- (b) Casual employee
- (c) Temporary employee
- (d) Apprentice

(10 Marks)

**Q8.**

Write short descriptive notes on any four of the following:

- (i) Specific performance
- (ii) Contracts *Uberrimae fidei*
- (iii) Strict liability
- (iv) Collective agreement
- (v) Labour tribunal
- (vi) Wages Boards Ordinance

(20 Marks)

