

Shivaji University, Kolhapur



Faculty of Humanities

(LL. B. – Three Years) Degree Programme

Choice Based Credit System (CBCS)

Revised Syllabus Part – I (Semester I)

Law of Torts and Consumer Protection Law

(To be implemented from Academic Year 2021-2022)

(Ad-hoc Boar of Studies (Law) Resolution No.4 On 30/04/2021)

**FIRST YEAR OF THREE YEARS LAW COURSE
SEMESTER – I**

DSC – 103: LAW OF TORT & CONSUMER PROTECTION LAW

(Paper – III)

Objectives of the Course:

Independent of criminal or contract law, Tort law provides individuals and groups with redress for injury to every dimension of life from physical injury, to property damage, to personal insult. Over past decades no area of law within the civil justice system has experienced greater ferment than the law of Tort and this has resulted in vital changes the thinking of the tortuous liability. The object of the course is to familiarize the students with the nature and extent of liability of the private enterprises, multinationals and the government authorities for the wrongs committed against the individual and their property, and to develop sound knowledge, skills and disposition amongst students of law on some of the contemporary issues of Specific Torts, Cyber Tort, Family Tort, and Economic Tort, Product Liability etc.

Presently the emphasis is on extending the principles not only to harmful acts but also to failure to comply with standards that are continuously changing due to advancement in science and technology. In the modern era of consumer, concern of goods and services, the law of torts has added significance in consumer protection. Taking this into consideration, a topic on Motor Vehicle Accident claims has been added. It emphasizes liability, Insurance and working of claim Tribunals.

Methods of teaching-learning:

Lecture method shall be the main method of learning to be followed. Dialectic method of case study, mooted and argumentation plays a very convincing procedure of learning. The information sharing and flow of information among the teacher and taught has to work as bonding of the entire course. Paper writing and presentation may be gainfully employed to maximize the teaching-learning devise.

Evaluation methods: Theory Examination – 70 Marks

Internal Assessment:

Assignment / Project Work / Presentation : 20 Marks

Viva Voce College Level : 10 Marks

: **30 Marks**

SYLLABUS:**UNIT I: CONCEPT OF TORT, NATURE AND SCOPE**

- 1.1 History, Definition and Scope of Tort
- 1.2 Nature of tort-Distinction between tort and crime
- 1.3 Essential elements of law of tort
 - 1.3.1 Wrongful act
 - 1.3.2 Legal damage-a) Damnum Sine injuria b) Injuria sine damnum
 - 1.3.3 Legal remedy
- 1.4 Relevance of law of tort - Intention, Motive, Malice, Knowledge, Negligence
- 1.5 Who May Sue and who may not be sued?

UNIT: II GENERAL DEFENSES IN TORT-

- 2.1 Volenti non fit injuria
- 2.2 Necessity & Act of God
- 2.3 Inevitable accident & Private defense
- 2.4 Statutory Authority
- 2.5 Judicial and Quasi-Judicial Acts

UNIT III: DISCHARGE OF TORTUOUS LIABILITY-

- 3.1 By death of parties- action personal is monitor cum persona exceptions
- 3.2 Waiver and acquiescence
- 3.3 Release
- 3.4 Accord & satisfaction
- 3.5 Limitation

UNIT IV: TORTIOUS LIABILITY-

- 4.1 The concept of liability

- 4.2 Basis and Scope of liability
- 4.3 Modes of creation of vicarious liability
 - 4.3.1 Express authorization
 - 4.3.2 Ratification
 - 4.3.3 Abetment
- 4.4 Liability-Special Relationship
 - 4.4.1 Master & Servant
 - 4.4.2 Independent Contractor & Servant
- 4.5 Strict Liability and Absolute Liability
 - 4.2.1 Ryland Vs Fletcher
 - 4.2.2 UCC V. Union of India
 - 4.2.3 Application of the rule in India

UNIT V: NEGLIGENCE AND NUISANCE

- 5.1 Definition and concept of Negligence
- 5.2 Essentials of Negligence - Standard of care
- 5.3 Doctrine of contributory negligence - *Res ipsaloquitor* and its importance in compensatory laws.
- 5.4 Definition and concept of Nuisance
- 5.5 Essential of Nuisance – Defenses - Remedy

UNIT VI: REMEDIES FOR TORT (As per BoS Resolution No. 4)

- 6.1 Judicial Remedies
- 6.2 Extra Judicial Remedies
- 6.3 Defamation and types of defamation
- 6.4 Essentials of Defamation
- 6.5 Defenses and remedies

UNIT VII : THE CONSUMER PROTECTION ACT, 2019 (As per BoS Resolution No. 4)

- 7.1 Introduction to Consumer Protection Act, 2019
- 7.2 Consumer Protection Act, 2019 – features
- 7.3 Important Definitions under CPA, 2019
- 7.4 Authorities under CPA, 2019

UNIT VIII : GRIEVANCE REDRESSAL MECHANISM (As per BoS Resolution No. 4)

- 8.1 Who can file a complaint
- 8.2 Rights of Consumer
- 8.3 Grounds & procedure of filing a complaint

List of Cases:

- 1.Ashby v. White (1703)2 LR 938;
- 2.Rudal Shah v. State of Bihar, AIR 1983 SC 1086
- 3.Saheli v. Commissioner of Police, Delhi AIR 1990 SC 513;
- 4.GloucesterGrammer School case (14190 V.B. Hill 11.;
- 5.Mayor of Bradford Corporation v. Pickles (1895) AC 587;
- 6.Bhim Singh v. State of Jammu & Kashmir AIR 1986 SC 494;
- 7.Usha Ben v. BhagyaLaxmiChitraMandir, AIR 1978 Guj.
- 8.Lucknow Development Authority v M.K. Gupta AIR 1994 1 SC 243;
- 9.State of Rajasthan v. Vidyawati Devi AIR 1962 SC 933;
- 10.Donoghue v. Stevenson, 1932,AC 562;
- 11.KasturiLal v. State of U.P. AIR 1965 SC 1039;
- 12.Nicholes v. Marshland (1876)2 Ex.D. 1;
- 13.Smith v. London and South Western Railway Co. (1870) LR 6;
14. Loyd v. Grame Smith &Co. (1912) AC 716:
- 15.JayLaxmi Salt Works (P) Ltd. V. State of Gujarat 1994(4) SCC 1;

16. Dr. Laxman V. Dr. Trimbak AIR 1969 SC 128;
17. Davis v. Redcliffe, (1990) 2 AER 536;
18. F. V. Birkshire Health Authority (1989) 2 All ER 545 (HL);
19. Maynard V. Midlands Health Authority (1985) 1 All ER 635 (HL);
20. Achutrao Haribhau Khodwa V. State of Maharashtra AIR 1996 SC 2377 ;
21. M.P. State Road Transport Corp. v. Basantibai (1971) MPLJ 706 (DB);
22. Indian Air Lines v. Madhuri Chaudhri AIR 1964 Cal. 252;
23. Glasgow Corporation v. Muir (1943) AC 448;
24. Municipal Corporation of Delhi v. Subhagwati AIR 1966 SC 1750;
25. Ratlam Municipality v. Vardhichand (1980) 4 SCC 162
26. Hall v. Brookland Auto Racing Club ;
27. Smith v. Backer (1981) AC 325;
28. Stanley v. Powell (1891) 11 Q.B. 86;
29. Heynes v. Harwood (1935) 1 KB 146
30. Leta Fay Ford V. Revlon, Inc. Supreme Court of Arizona (153 Ariz. 38, 734 P.2d 580) 1987;
31. Noor Mohd. v. Mohd Jiauddin AIR 1992 MP 244;
32. Hayward v. Thompson (1981) 3 All E R 450;
33. M.C. Verhese v. T.J. Poonam, AIR 1970 SC 1876;
34. T.S. Bhatt v. A. K. Bhatt AIR 1978 Ker 111;
35. Girija Prasad Sharma v. Uma Shankar Pathak AIR 1973 MP 79;
36. Quinn v. Leathem, (1901) AC 495;
37. Municipal Board of Kanauj v. Mohanlal AIR 1951 All 867
38. State v. Gangadhar AIR 1967 Raj 199;
39. Rajalingam v. Lingaiah (1964) 1 ALT 391;

40. Sobha Ram v. Tika Ram (1936) ILR 58 All 903
41. Reyland v. Fletcher (1868) L.R. 3 H.L. 30;
42. M.C. Mehta v. Union of India (1987) 1 SCC 395
43. In Re Polemise Case (1921) 3 KB 560 CA;
44. Wagon Mound Case (1961) AC 388
45. Leisbosch Dredger v. Edison, (1933) AC 449 HL.
46. Barrett v. Fonorow, 799 N.E.2d 916 (Ill. App. 2003)
47. Barrett v. Rosnethal, 112 Cal. App. 4th 749 (2003).
48. Bill McLaren, Jr. V. Microsoft Corporation, Court of Appeals of Texas, Dallas (1999) WL 339015.;
49. CompuServe Inc. v. Cyber Promotions, Inc., 962 F.Supp 1015 (SD Ohio 1997).
50. Doe v. AOL, Inc., 783 So. 2d 1010 (Fl 2001).
51. EBAY, Inc., Plaintiff, V. BIDDER'S EDGE, Inc., Defendant. United States District Court for the Northern District of California .100 F.Supp.2d 1058(2000).
52. Hotmail Corp. v. Van\$ Money Pie Inc., WL 388389 (1998). Kremen v. Cohen, 337 F.3d 1024 (9th Cir 2003).
53. School of Visual Arts v. Kuprewicz, 771 N.Y.S.2d 804 (2003).
54. United States of America V. Hambrick U.S District Court, W.D. Virginia 55F. Supp. 2d 504, (1999)]

References:

1. Wienfield and Zolowicz, Torts, 17th Edi., Sweet & Maxwell 2006
2. Salmond, J W, Salmond's Law of Torts (8th edition, Sweet & Maxwell, London, 1934)
3. Fleming, J G, The Law of Torts (9th edition, LBC Information Services, Sydney, 1998)
4. Ratan Lal and Dhiraj Lal on Law of Torts,
5. A Lakshminath M Sridhar, Ramaswamy Iyer's, The Law of Torts, Lexis Nexis, Tenth Edi 2007
6. Tony Weir, An Introduction to Tort Law, 2nd Edi Oxford University Press 2006.

7. John Murphy, Street on Torts, Eleventh Edition Oxford University Press 2006.
8. Tabrez Ahmad "Cyberlaw, E-Commerce & M-Commerce". APH Pub. Corp. New Delhi 2003.
9. Lee B. Burgunder, Legal Aspects of Managing Technology 2nd Edition West 2001.
10. Ramaswamy Iyer Law of Tort
11. Bangia's Law of Torts
12. Madden & Owen, On Product Liability, West Group
13. D.D. Basu- The Law of Torts (1982), Kamal, Kalkatta
14. Dr. Avtar Singh- The Law of Consumer Protection : Principles and practice (2004), Eastern Book Company, Lucknow
15. Saraf D.N.- The Law of Consumer Protection in India, Tripathi, Bombay
16. Ratanlal & Dhirajlal on Law of Torts
17. Salmond's Law of Torts
18. Ramaswamy Iyer – Law of Tort
19. Bangia's Law of Torts
20. Law of Torts and C.P. Law by Dr. N.V. Paranjape
