

Passage 1:

Common intention implies a pre-arranged plan and acting in concert pursuant to the plan. Common intention comes into being prior to the commission of the act, which need not be a long gap. To bring common intention into effect a pre-concert is not necessarily be proved, but it may well develop on the spot as between a number of persons and could be inferred from facts and circumstances of each case. For example A and B caught hold of C where only B stabbed C with a knife but A is also liable for murder as there was a pre concerted action. In the case Pandurang v. State of Hyderabad, Supreme court emphasized on this point that prior concert need not be something always very much prior to the incident, but could well be something that may develop on the spot, on the spur of the moment.

Common Intention and Similar Intention

Common intention does not mean similar intention of several persons. To constitute common intention it is necessary that the intention of each one of them be known to the rest of them and shared by them. In the case of Dukhmochan Pandey v. State of Bihar, the Supreme Court, held that: “Common intention which developed at the spur of the moment is different from the similar intention actuated a number of person at the same time....the distinction between a common intention and similar intention may be fine, but is nonetheless a real one and if overlooked, may lead to miscarriage of justice....” The mere presence of accused together is not sufficient to hold that they shared the common intention to commit the offence in question. It is necessary that the intention of each one of 'several persons' be known to each other for constituting common intention.

Question 1: A gang of six members went to a bank, armed with weapons to commit a heist. While five of the gang members went inside the bank, Mr. A (the sixth member) waited outside the bank to alert them on any threat. During the heist one of the gang members fired a gun at the branch manager, as a result he died. All five escaped but Mr. A was caught and arrested. Now, choose the most appropriate option as per the principle stated in the above passage.

- A. Mr. A is not liable for murder as he was outside the bank and there was no common intention.
- B. Mr. A along with all other members of the gang are liable for murder as there was common intention

- C. Only that person is liable for murder who actually fired the gun.
- D. Mr. A is liable only for the heist and no other offence.

Question 2 : Raman and Raghav were riding on a motorcycle on a busy street, suddenly Aman (another biker) bumped into their bike. A heated argument started between the three of them. While Raghav started abusing Aman, Raman hit Aman with an iron rod lying on the road and as a consequence he died. Now, chose the correct option.

- A. Both Raman and Raghav are liable for murder as there was a common intention developed on the spot.
- B. Raghav is not liable for murder as there was no common intention to kill Aman.
- C. No one is liable as Aman was a wrongdoer himself and he started the fight.
- D. Only Raghav is liable for murder as he started abusing Aman.

Question 3 After reading the passage which of the following is not correct in relation to the difference between Common and Similar intention?

- A. Similar intention is developed prior to the commission of offence but the common intention is developed only at the time of commission of offence.
- B. Under Common intention each of the offender is equally liable for the offence but under similar intention each of the offender is differently liable.
- C. In order to determine the existence of Similar or Common intention, one must analyse the fact and circumstances of each case.
- D. The boundary between Similar and Common intention is very fine and it may sometime overlap.

Question 4: Mr. X and Mr. Y entered into a house at night to commit theft, while committing theft Mr. Y committed sexual assault on a minor girl of aged 11 years. Identify for which of the following offences Mr. X is liable for.

- A. Both Theft and Sexual Assault as there was a Common intention.
- B. Only Theft as there was a Similar intention.

- C. Only Theft as Mr. X had a different intention from Y.
- D. He would not be liable for any offence.

Question 5: Which of the following statements is correct in relation to the difference between common intention and similar intention?

- A. The intention of the accused and co-accused can be inferred from the facts and circumstances of each case.
- B. Under common intention, it is considered that all the accused have jointly committed the offence themselves and are jointly liable.
- C. Each accused is liable for the offence he has actually committed, if the common intention cannot be proved.
- D. All of the above.

Passage 2

Article 20(1) of the Indian Constitution prohibits Ex Post Facto laws. The expression Ex Post Facto Law means a law, which imposes penalties or convictions on the acts already done and increases the penalty for such acts. In other words, Ex Post Facto Law, imposes penalties retrospectively. For example, The Dowry Prohibition Act, 1961 came into force from 20.5.1961. A person guilty of accepting dowry is punishable under the Act after 20.5.1961 and not before 20.5.1961.

Ex post facto laws are of three kinds as follows:(a) A law which declared some act or omission as an offence for the first time after the completion of that act or omission. (b) A law which enhances the punishment or penalty for an offence subsequent to the commission of that offence. (c) A law which prescribes a new and different procedure for the prosecution of an offence subsequent to the commission of that offence.

Clause (1) of Art. 20 provides protection only in respect of the above first two categories of ex post facto laws i.e. laws which declare acts as offences subsequent to the commission to those acts and laws which enhance the penalty subsequently.

Article 20(1) provides: *No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.* The first part of clause (1) provides that no person shall be convicted of any offence except for violation of law in force at the time of the commission of the act charged as an offence. The second part of clause (1) protects a person from a penalty greater than that which he might have been subjected to at the time of the commission of the offence.

Question 6: The Parliament of India legislated the Sexual Harassment at Workplace Act, in the year 2013 and simultaneously some new offences were also added to the Indian Penal Code, 1860. Mr. A is an employee of an institution, against whom departmental enquiry has been initiated for committing sexual harassment of a female colleague in the year 2012. Now, choose the correct option.

- A. Such inquiry is valid as per Article 20 (1) of the Constitution as the complaint was made after the act came into force.
- B. Article 20 (1) will not be applicable as the matter does not relate to an offence.
- C. As the Act was passed in the year 2013, any inquiry under such Act is invalid.
- D. Only inquiry may be conducted but no penal action can be taken against him after such inquiry.

Question 7: Article 20 (1) would not affect which of the following acts of the legislature?

- A. Act of the legislature enhancing the term of imprisonment.
- B. Act of the legislature enhancing the amount of fine.
- C. Act of the legislature changing the punishment of death to life imprisonment.
- D. Act of legislature changing the nature of imprisonment from simple to rigorous

Question 8: Mr. A is a student of Law, aged 19 years. He is socially active and expresses his opinion on every social and political event of the nation through social media platforms. In one of his blog, he severely criticised the policy of a state government of changing names of cities and towns. He also stated that the government is biased towards a particular religion. The said blog was posted on 19th April, 2020 and subsequently, an amendment was made to Indian Penal Code whereby ‘Hate Speech’ was made a distinct offence and punishment was prescribed. An action was brought against him under the said provision for the blog. Now, choose the most appropriate option amongst the following

- A. Mr. A may be liable for the offence of Hate speech as the blog was not removed even after the amendment.
- B. Mr. A may be liable for the offence of Hate speech as Article 20 (1) does not cover such areas.
- C. Mr. A may not be liable for the offence because the act was done before the amendment.
- D. Mr. A may not be liable for the offence as his blog was innocent and a fair criticism.

Question 9: Considering the fact situations given in the above question, the Parliament passes a legislation in September 2020, whereby an amendment is made to the Juvenile Act and now

a person below the age of 20 would be a Juvenile and special procedure would be followed for his trial. Choose the most appropriate option amongst the following

- A. Mr. A would not be considered as juvenile as it is prohibited under the scheme of Article 20 (1).
- B. Mr. A would not be considered as juvenile because the amendment came after he committed the offence.
- C. Mr. A would be considered a Juvenile and tried under the new procedure.
- D. None of the above.

Question 10: Considering the fact situation in the third question to this passage, the Parliament passes a legislation for the Probation of Offenders, under which any offender below the age of 21 will not serve the sentence of imprisonment in a prison, instead he will serve the sentence in a probation house. Now, choose the most appropriate option.

- A. Mr. A will get the benefit of Probation of Offenders Act.
- B. Mr. A will not get the benefit of Probation of Offenders act as it is prohibited by Article 20 (1) of the Constitution.
- C. It is discretion of Mr. A to decide whether he wants such benefit or not.
- D. None of the above.

Passage 3

Legal Principles

1. Negligence is a legal wrong that is suffered by someone at the hands of another who has a duty to take care but fails to take proper care to avoid what a reasonable person would regard as a foreseeable risk.
2. The test of liability requires that the harm must be a reasonably foreseeable result of the defendant's conduct, a relationship of proximity must exist and it must be fair, just and reasonable to impose liability.
3. The claimant must prove that harm would not have occurred 'but for' the negligence of the defendant.
4. Duty of care is a legal obligation which is imposed on an individual requiring adherence to a standard of reasonable care while performing any acts that could foreseeably harm others.
5. Conversations between a doctor and patient are generally confidential but there are few exceptions.

Question 11: Company called KLM, manufacturers of electrical equipment, was the target of a takeover by ABS industries. KLM was not doing well. In March 2019, KLM had issued a profit warning, which had halved its share price. In May 2019, KLM's directors made a preliminary announcement in its annual profits for the year up to March. This confirmed that the position was bad. The share price fell again. At this point, ABS had begun buying up shares in large numbers. In June 2019, the annual accounts, which were done with the help of the accountant Dinesh, were issued to the shareholders, which now included ABS. ABS reached a shareholding of 29.9% of the company, at which point it made a general offer for the remaining shares, as the City Code's rules on takeovers required. But once it had control, ABS found that KLM's accounts were in an even worse state than had been revealed by the directors or the auditors. It sued Dinesh for negligence in preparing the accounts and sought to recover its losses. This was the difference in value between the company as it had and what it would have had if the accounts had been accurate. Which of the following answers is incorrect?

- (A) No duty of care had arisen in relation to existing or potential shareholders. The only duty of care the auditor's owed was to the governance of the firm.
- (B) Dinesh is not liable as it is a case of pure economic loss in the absence of contractual agreements between parties.
- (C) There are circumstances where an auditor will owe a duty of care in respect of reports produced. These are conditional that at the time the report is prepared it is known by the auditors that the results are for a specific class and for a specific purpose.
- (D) An ability to foresee indirect or economic loss to another person as the result of a defendant's conduct automatically impose on the defendant a duty to take care to avoid that loss.

Question 12: In 2005, the local council of Delhi approved building plans for the erection of a block of apartments. The approved plans showed the base wall and concrete foundations of the block to be three feet or deeper to the approval of local authority. The notice of approval said that the bylaws of the council required that notice should be given to the council both at the commencement of the work and when the foundations were ready to be covered by the rest of the building work. The council had the power to inspect the foundations and require any corrections necessary to bring the work into conformity with the bylaws, but was not under an obligation to do so. The block of apartments was finished in 2006. The builder (who was also the owner) granted 99-year leases for the apartments, the last conveyance taking place in 2010. In 2017 structural movements occurred resulting in failure of the building comprising cracks in the wall, sloping of the floors and other defects. In 2019, the plaintiffs who were lessees of the apartments filed cases for negligence against the builder and the council. The plaintiffs claimed that the damage was a consequence of the block having been built on inadequate foundations, there being a depth of two feet six inches only as against the three feet or deeper shown on the plans and required under the bylaws. The plaintiffs claimed damages in negligence against the council for approving the foundations and/or in failing to inspect the foundations. Decide whether the council owed a duty of care to the claimants in respect of the incorrect depth of the foundations laid by the third-party builder?

(A) The Council is not liable for damages to the plaintiff as failing to inspect would not render the council liable unless it was considered that it had failed to properly exercise its discretion to inspect and that they had failed to ensure proper compliance with building regulations.

(B) The Council is liable for negligence as they failed to inspect the foundation.

(C) There is no negligence in building the apartments as there is minor difference between a foundation which is three feet deep and a foundation which is two feet six inches deep.

(D) The tenets has a duty to inspect the property properly before entering into such a long lease agreement.

Question13: Soman was the student of PRQ University. He met Pamela in a youth festival and fell in love with her. However, Pamela was not interested in having any serious relationship with Soman. Due to this, Soman went into emotional crisis and started consulting a psychologist in the PRQ Memorial Hospital. In October 2018, Soman murdered Pamela. Pamela's parents contended that only a short time prior, Soman had expressed his intention to murder their daughter to his therapist, Dr. Surana, a psychologist employed by the University. They further alleged that Dr. Surana had warned campus police of Soman's intentions, and that the police had briefly detained him, but then released him. Pamela's parents filed a case of negligence against the Police Department and the University officials on two grounds: the failure to confine Soman, in spite of his expressed intentions to kill Pamela, and failure to warn Pamela or her parents. Defendants maintained that they owed no duty of care to the victim, and were immune from suit. Which of the following is incorrect?

(A)The police did not have the requisite proximity or special relationship with family of Pamela, sufficient to impose a duty to warn her of Soman's intention.

(B) The public policy favoring protection of the confidential character of patient psychotherapist communications must yield to the extent to which disclosure is essential to avert danger to others. The protective privilege ends where the public peril begins.

(C) The therapists and Regents of University are liable for breach of duty to exercise reasonable care.

(D)Soman only once expressed the desire to kill Pamela. Such kinds of feelings are normal in any mentally ill patient. Moreover, information received during a counselling session is confidential in nature and so therapists cannot reveal it to the parents of Pamela.

Question 14: R, T and U were watchmen in Skypark Society. They were on night shift and began vomiting after drinking tea. They went to the SEM Hospital and complained to the nurse about it. The nurse thought they were vomiting because of alcohol they had been drinking earlier in the evening. However, the nurse reported it to the medical officer who refused to examine them and said that they needed to go home and contact their own doctors. They returned to their workplace, where U's condition deteriorated. U died of arsenic poisoning five hours later on way to hospital. U's wife brought a claim of negligence against the Hospital administration. She argued that the hospital was negligent in not identifying that U had been poisoned, and the doctor should therefore have seen to him when they first approached the hospital. The hospital denied they were negligent, and in any event said they did not cause his death. Decide.

(A)The hospital is not liable for negligence because even if the patient was examined five hours earlier to the death he would have died anyways. The test of causation was not satisfied. The Hospital did not cause U's death – But for the defendant's negligence, U would have died anyways.

(B) It was highly possible that the doctor would have identified U's condition as arsenical poisoning, and therefore U would have received the treatment he needed to survive.

(C) Where there are a number of possible causes, the claimant must still prove the defendant's breach of duty caused the harm or was a material contribution.

(D)Both (A) & (C)

Passage 4

Legal Principle: Generally, the owner of the property has a duty to maintain his property so as to make it reasonably safe for use. However, the occupier also owes a duty to take such care as is reasonable to see that the visitor is reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be therein.

Question 15: Facts: Sheila is a painter. She went to her friend Ruchi's house for meeting her. Sheila requested to use the bathroom and injured her right hand on a broken water faucet handle. Sheila filed a personal injury action for hand injuries suffered alleging that Ruchi failed to warn her that her bathroom fixtures were cracked and dangerous. Ruchi says she had complained to the landlord about the broken handle so the landlord is liable. Decide whether the Sheila's injury the proximate cause of Ruchi's negligence?

(A) A licensee or social guest was obliged to take the premises as he or she found them, and the possessor of the premises owed a duty only to refrain from wanton or wilful injury.

(B) The landlord is liable as Ruchi had complained to the landlord about the broken handle and it is the duty of the landlord to get the repair work done.

(C) Ruchi is not liable as the use of toilet is not the purposes for which Sheila was invited or permitted by the occupier to be therein.

(D) Ruchi owes a duty to warn of a dangerous condition so the guest can take special precautions, like the host would, when they come in contact with it.

Passage 5

Question 16: Legal Principle: Intimidation involves a threat to do something unlawful or 'illegitimate'; it must be intended to coerce the claimant to take or not take certain action.

Facts: Hari, a skilled draughtsman and employee of the Overseas Airways Corporation (OAC), resigned his membership of the Association of Engineering and Shipbuilding Draughtsmen (AESD), a registered trade union. It was agreed between OAC and AESD (among others) that no strike or lockout should take place and disputes should be handled by arbitration. He resigned from his union, the Association of Engineering and Shipbuilding Draftsman (AESD), after a disagreement. The Corporation and AESD had a contract that stipulates that the employer will only hire workers from a specific union and those workers can only remain with that employer while they are a part of the union so AESD threatened a strike unless Hari resigned also from his job or was fired. Corporation suspended Hari and, after some months, dismissed him with one week's salary in lieu of notice. Hari brought an action for damages alleging that he was the victim of a tortious intimidation. Decide.

(A) The union was guilty of the tort of intimidation. It was unlawful intimidation to use a threat to break their contracts with their employer as a weapon to make him do something which he was legally entitled to do but which they knew would cause loss to Hari.

(B) The Union was not guilty of intimidation as no unlawful means were used to induce Corporation to terminate his contract of service.

(C) There was a contract between Union and Corporation that stipulates that the employer will only hire workers from a specific union and those workers can only remain with that employer while they are a part of the union so the Union is not liable.

(D) Hari cannot claim damages as he was paid one week's salary in lieu of notice.

Passage 6

Question 17: Legal Principles: 1. A deceit occurs when a misrepresentation is made with the express intention of defrauding a party, subsequently causing loss to that party.

2. “Misrepresentation” means and includes— the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true; any breach of duty which, without an intent to deceive, gains an advantage of the person committing it, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him; causing, however innocently, a party to an agreement, to make a mistake as to the substance of the thing which is the subject of the agreement.

Fact: XY Company in its prospectus stated that the company was permitted to make engines that were powered by electricity, rather than by fuel. In reality, the company did not possess such a right as this had to be approved by the Government Board. Gaining the approval for such a claim from the Board was considered a formality in such circumstances and the claim was put forward in the prospectus with this information in mind. However, the claim of the company for this right was later refused by the Board. The individuals who had purchased a stake in the business, upon reliance on the statement, brought a claim for deceit against the defendant’s business. Decide.

(A) The company is liable for false representation as their claims were eventually turned out to be false.

(B) The company is liable as their false statements has resulted in causing loss to the shareholders.

(C) The company is not liable as the statement in its prospectus was simply incorrect and not fraudulent.

(D)The shareholders should have collected as much information regarding the company as possible before purchasing a stake in it.

Passage 7

Question 18: Legal Principles: 1. Private nuisance is a continuous, unlawful and indirect interference with the use or enjoyment of land, or of some right over or in connection with it. 2. Generally, nuisances cannot be justified on the ground of necessity, pecuniary interest, convenience, or economic advantage to a defendant. 3. A person is liable if he can reasonably foresee that his acts would be likely to injure his neighbour. 4. In cases of nuisance, the court may grant an injunction restricting the nuisance from occurring in the future when the loss could not adequately compensate.

Facts: Tina purchased a house in an estate which was adjacent to a functioning, in use, cricket field. The members of Super Eleven Cricket Club used to play Cricket in that field for over 70 years. After Tina moved into the property, cricket balls began to fly over the field's protective barrier and into the Tina's property. Tina complained, which caused Super Eleven Cricket Club to erect a chain link fence. This improved matters as less balls were now flying onto the Tina's property but it did not fully solve the issue as some still got through. The club offered Tina to pay for any damage done or injuries received as a result of the balls landing onto her land, including fixing any broken windows and similar. Tina, however, refused all of the club's offers and filed a case against the members of the Club alleging nuisance and negligence and requested court to grant an injunction to prevent the club from playing cricket on their ground. Tina argued that even though the club offered to make good any damage and that there had been no injuries, she was not able to use her garden when matches were being played for fear of being struck by a cricket ball. Decide.

(A) The members of Club are not liable as Tina was aware about the activities of the Cricket Club and had willingly purchased the property.

(B) The members of the Club are liable for nuisance and court should pass an order of compensation as the injury is small and could be compensated in terms of money. Also, public interest considerations outweighed the private rights of the plaintiff and therefore a remedy of damages was sufficient in the circumstances.

(C) The members of the Club are liable for nuisance and court should pass an order of injunction. The plaintiff's right to enjoyment of her property outweighs the right of the members of the Club to play cricket.

(D)The Club is not liable as they have already taken sufficient measures to mitigate the effects of their act and are ready and willing to do so in future too.

Answers

- 1) B
- 2) B
- 3) A
- 4) C
- 5) D
- 6) D
- 7) C
- 8) A
- 9) C
- 10) A
- 11) D
- 12) A
- 13) D
- 14) D
- 15) D
- 16) C
- 17) C
- 18) B