



جامعة السلطان الشريف علي الإسلامية
UNIVERSITI ISLAM SULTAN SHARIF ALI
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

Faculty of Shariah and Law
Semester 1I, 2015/2016 Academic Session
Final Examination Question Paper

Course Code : LB 2302
Course Name : Tort Law II
**Course Level : Bachelor of Laws (LL.B) & Bachelor of
Shariah Laws (BSL)**
Time : 3 hours

Notes:

1. Answer any **four** questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

Question 1 (15 marks)

- a) Explain the differences between “Contemptuous Damages” and “Aggravated Damages”.

(6 marks)

- b) Amin, aged 31 years, suffered serious injuries at his workplace due to faulty equipment. He cannot work anymore during his lifetime and needs lifetime nursing. Consequently, his wife has resigned from BND 3,000 per month job.

At the time of the accident, he was earning BND 2,500 per month. His trial took five years and at that time the salary of Amin would have been BND 3,500 per month, had he not got injured. He had a life insurance for BND 50,000 and this amount has been paid to him by the insurance company. He used to spend BND 500 on himself every month.

Advise Amin on the quantum of damages under the law applicable in Brunei Darussalam.

(9 marks)

Question 2 (15 marks)

- a) Explain the concept of “trespass ab initio”.

(6 marks)

- b) There was a birthday party at Hassan’s house. Karim, a guest, put a white sheet over his body to play a joke. Halima, another guest, fainted when she saw a person covered with a white sheet. Karim carried her into a room and left her there to recover. Hassan saw Karim leaving the room and fearing theft he locked the door.

One hour later Karim went to see whether Halima has recovered. He found the door locked. Karim asked Hassan for the key having explained to him what had happened.

Thirty minutes later Karim and Hassan went to the room and found Halima asleep. Karim shook her. Halima awoke and believing she was being attacked, she struck Karim violently with a stick. Karim suffered head injury.

What torts, if any, have been committed by Hassan, Karim and Halima? Discuss.

(9 marks)

Question 3 (15 marks)

- a) Tort of conversion can be committed by “Taking Possession” and “Abusing Possession”.

Discuss.

(6 marks)

b) Athar and his wife Afroza went to Orchid Garden along with their five years old son Baseer. Entry to the garden is by payment. Athar and Afroza, being keen gardeners, focused on different flowers, bothering least for their son Baseer. Baseer felt bored and he wandered about. He sees a tree bearing some berries. In front of the tree there is a notice which states that the berries are poisonous and should not be eaten. Baseer eats some of the berries and falls seriously ill. Meanwhile, Afroza was walking when a tree-branch hanging over her path fell on her head. She suffers serious injuries. This tree branch has been left carelessly suspended for several months.

Advise whether Baseer and Afroza have got any case against owners of Orchid Garden under the law relating to occupiers liability.

(9 Marks)

Question 4 (15 marks)

a) Explain the concept of “innuendo”

(6 marks)

b) XYZ University decides to set up a fund to allow promising young scholars to spend some months in America to have some understanding of American culture. A committee consisting of Adnan,

Diwan and Edward is set up to consider applications. Asrar is one of the applicants. Adnan e-mails a letter to Diwan saying:

I understand Asrar lacks all those qualifications which are needed for a promising scholar. However, Edward circulates a letter to all university officers saying:

From the attached documents, it is evident that 'Asrar is an incompetent scholar and not fit to represent university in America'.

Edward types this memo himself but leaves a copy on photo copying machine where it is read by Intan. The fact is that Asrar is a brilliant and promising young scholar.

Advise Asrar whether he has a case for defamation against Adnan and Edward. Can Adnan and Edward plead any defence?

(9 marks)

Question 5 (15 marks)

a) Define 'Passing Off'. Explain and illustrate the concept in relation to imitation of 'Get-up'.

(6 marks)

b) Brunei Products Sdn Bhd owns a factory in Beribi and employs a considerable number of people. Recently, the factory emitted a large quantity of acid fumes that damaged the paintwork of the neighbouring houses and some residents' cars. In addition, Brunei