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GENERAL SIR JOHN KOTELAWALA DEFENCE UNIVERSITY
Faculty of Engineering
BSc Engineering Degree

INTAKE 36
SEMESTER VIII - END SEMESTER EXAMINATION - 2022 DECEMBER
(Streams – CE/ME/MC/EE/ET/BM)

(COMMERCIAL & INDUSTRIAL LAW)
(LW 4252)

Instructions:

Duration: 03 hours

Answer four (04) questions only.

Illegible handwriting will be penalized.

1. a) Explain what is meant by the phrase '*separate legal personality*' in Company law. Support your answer with judicial precedents.
- b) Describe the different types of companies, existing under the current legal regime.

(10 x 2 = 20 Marks)

2. **An agency is a legal relationship that exists between two people, which is critical to the business world of today. It should always be for the benefit of the Principal.**

Comment on the accuracy of the above statement, citing established legal principles and judicial precedents.

(20 Marks)

3. a) Describe what is meant by 'an invitation to treat' in the law of Contract; substantiate your answer with decided case law.

b) Ama lost her beloved dog, 'Spotty' on the 1st of November 2022. Deeply worried, she published an advertisement in the local newspaper, including a photograph of Spotty and offering a reward of Rs. 60,000 for anyone who would find him and bring him back to her.

Tilak found Spotty wandering the streets and took him to Ama. She was thrilled to have Spotty back. A few days later, Tilak requested Ama to keep her promise and pay him the reward of Rs. 60,000. Ama replied that she had been severely depressed when she had published the advertisement and that she could not afford to pay anyone Rs. 60,000 at this point, as Spotty himself was not worth such a large amount. Advise Tilak, based on legal principles and judicial precedents under the law of Contract.

(10 x 2 = 20 Marks)

4. Consider the two following scenarios relating to the law of Contract and respond to the questions posed, citing established legal principles and judicial precedents:

a) Laaya, a well-known singer, decides to use Sindu Concert Hall (SCH) as the first venue in her 'Sri Lankan Music Tour'. During negotiations over the telephone, the SCH Manager, Sidath, informs Laaya that '*the hall will hold 3,000 people and the acoustics are very suitable for the performance of your musical repertoire... everything will be heard clearly and the crowd can be comfortably seated.*'

Laaya's concert is sold out. However, only 1,750 persons are admitted to the hall, on the instructions of the local police. In reality, the hall could only hold 1,700 persons, and overcrowding would result in health and safety concerns. The acoustics are so inferior that a large percentage of the audience demanded their money back. The adverse media publicity affected ticket sales for the remainder of Laaya's Sri Lankan tour, causing her reputation to fall and resulting in empty venues throughout the island. Advise Laaya of the remedies available to her.

- b) An annual Perahera was to be held in Colombo, traversing the route from Colombo 04 to Fort. Many hotels on Galle Road charged premium prices for their rooms overlooking Galle Road, for spectators to view the Perahera. Shilpa, who had never missed watching the Perahera, paid triple the normal price of such a hotel room and booked one well in advance, at Hotel Grendel. She made her booking on January 22nd 2022, for the Perahera which was to be held on 20th July 2022. However, due to the political and fuel crisis in Colombo, the Perahera was cancelled on the 18th of July 2022. Hotel Grendel notified Shilpa of the cancellation and also indicated that it would not entertain any paying guests due to the prevailing crisis. Shilpa asked them to refund her money, but the hotel refused. Advise Shilpa of the possible remedy she may have.

(10 x 2 = 20 Marks)

5. a) "...arbitration is the submission of a dispute to the judgement of a third party."

Nigel Hatch, *Commentary on the Industrial Disputes Act of Sri Lanka* (Friedrich-Ebert-Stiftung, Colombo 1989) 156

Comment on the above statement whilst detailing the provisions relating to Arbitration in the Industrial Disputes Act No. 43 of 1950 (as amended).

- b) Briefly describe the law relating to Labour Tribunals, as detailed in the Industrial Disputes Act No. 43 of 1950 (as amended).

(10 x 2 = 20 Marks)

6. a) Describe the benefits of Collective Bargaining and Collective Agreements, under Industrial law.

- b) Explain how the Sri Lankan legal system has ensured Collective Bargaining through the recognition of Trade Unions and Trade Union action. Substantiate your answer with reference to relevant statutory provisions.

(10 x 2 = 20 Marks)

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7. a) Explain the extent to which an employer owes a duty of care towards his employee, citing established legal principles and judicial precedents.

b) Vikram had been working at an asbestos factory for 20 years. In January 2022 he developed Mesothelioma – a rare cancer, caused by the inhalation of asbestos fibers. Two doctors confirmed that his exposure to asbestos at work, was the likeliest cause for his illness. As the cancer was not curable and of an aggressive nature, Vikram passed away on November 15th 2022. His widow, Swarna, seeks your advice as to the remedies available to her under the law of Sri Lanka, against Vikram's employer. Advise her, citing relevant statutory provisions and decided case law.

(10 x 2 = 20 Marks)