

Daily Practice — Legal Reasoning · Analytical Reasoning · Quantitative Techniques

Darken one bubble per question. Negative marking applies. Answers and detailed explanations are provided in a separate companion sheet.
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SECTION A — LEGAL REASONING

Q1-12 · 12 Marks

PRINCIPLE A — NEGLIGENCE AND THE DUTY OF CARE (Q1-6)

The tort of negligence requires a claimant to establish four elements: a legal duty of care owed by the defendant, a breach of that duty, factual and legal causation, and damage that is not too remote. The duty arises under the 'neighbour principle' enunciated in *Donoghue v. Stevenson* (1932), where Lord Atkin held that one must take reasonable care to avoid acts or omissions likely to injure persons so closely and directly affected that one ought reasonably to have them in contemplation. Breach is measured against the standard of the reasonable person; where a professional is involved, the Bolam test applies, fixing liability only where conduct departs from a practice accepted as proper by a responsible body of skilled opinion. Causation demands a 'but-for' link and that the harm be a foreseeable kind, per *The Wagon Mound*. Defences include *volenti non fit injuria* and contributory negligence, the latter apportioning damages according to each party's share of fault rather than defeating the claim entirely. A *novus actus interveniens* may break the chain of causation. Damage is the gist of negligence: without injury, no action lies however careless the defendant.

1. A bottler negligently allows a snail into a sealed opaque ginger-beer bottle. A consumer, gifted the drink by a friend who bought it, falls ill on drinking it and sues the bottler directly. Applying the neighbour principle, the bottler is:

- A. Liable to the consumer, because the manufacturer owes a duty to the ultimate consumer despite the absence of any contract between them.
- B. Not liable to the consumer, because the duty of care runs only to the friend who actually purchased the contaminated bottle.
- C. Not liable to the consumer, because liability in such defective-product cases depends entirely on a contract of sale being present, on the facts as presently stated.
- D. Liable to the consumer, because the manufacturer is an insurer of safety and owes a strict duty irrespective of any negligence.

2. A cyclist rides at night without lights or a helmet and is struck by a motorist who was speeding. The cyclist suffers head injuries a helmet would have reduced. The court finds both at fault. On these facts the correct outcome is:

- A. The cyclist recovers nothing, because his failure to wear a helmet and lights amounts to a complete bar to any recovery.
- B. The cyclist recovers damages reduced in proportion to his own share of fault, since contributory negligence apportions rather than defeats the claim.
- C. The cyclist recovers damages in full, because the motorist's speeding was the dominant cause and outweighs any rider fault, on the facts as presently stated.
- D. The cyclist recovers nothing, because by riding unlit at night he voluntarily accepted the risk of being struck.

3. A surgeon adopts a treatment method that a respectable minority of competent surgeons endorses, though most prefer another technique. The patient suffers a known, non-negligently-caused complication and sues. Under the Bolam standard, the surgeon is:

- A. Liable, because a doctor must always follow the technique preferred by the majority of practitioners in the field.
- B. Not liable, because conduct accepted as proper by a responsible body of skilled medical opinion is not negligent though others differ.
- C. Liable, because any complication suffered by a patient during treatment is itself proof of a breach of professional duty, on the facts as presently stated.
- D. Not liable, because a professional can never be held negligent so long as the patient gave consent to the procedure.

4. Which of the following statements about the tort of negligence is INCORRECT?

- A. An unforeseeable intervening act of a third party may operate as a *novus actus interveniens* breaking the chain of causation.
- B. A duty of care may be owed to persons whom the defendant ought reasonably to have contemplated as likely to be affected.
- C. Damage is not an essential ingredient, so a careless act founds a complete cause of action even where it injures nobody.
- D. The professional standard of care is assessed by reference to a responsible body of opinion skilled in the relevant field.

5. A factory negligently leaks an exotic chemical of a kind never before known to cause fire. The chemical ignites in a freak manner, burning a neighbouring warehouse. The fire damage was of an entirely unforeseeable type. The factory is:

- A. Liable for the fire damage, because once a duty is breached the defendant becomes an insurer against every resulting loss.
- B. Liable for the fire damage, because a negligent defendant answers for all direct consequences however unforeseeable in kind.
- C. Not liable for the fire damage, because liability extends only to harm of a kind that was reasonably foreseeable.
- D. Not liable for the fire damage, because a freak chemical reaction always counts as a *novus actus interveniens* in law.

6. A lifeguard sees a swimmer in distress but, being off duty and merely walking past a public beach, does nothing, and the swimmer drowns. There was no prior relationship between them. In the tort of negligence the off-duty lifeguard is:

- A. Not liable, because liability for omissions only ever arises where the defendant created the original danger himself, on the facts as presently stated.
- B. Liable, because any trained rescuer who can save a life owes a duty to act towards everyone in peril nearby.
- C. Liable, because the neighbour principle imposes a positive duty to rescue all foreseeable victims in proximity.
- D. Not liable, because the common law imposes no general duty to take positive action to rescue a stranger absent a special relationship.

PRINCIPLE B — RIGHT OF PRIVATE DEFENCE UNDER THE BHARATIYA NYAYA SANHITA, 2023 (Q7-12)



Sections 34 to 44 of the Bharatiya Nyaya Sanhita, 2023 codify the right of private defence. Section 34 declares that nothing is an offence which is done in the exercise of the right of private defence. Section 35 grants every person a right, subject to restrictions in Section 37, to defend his own body and that of any other person against offences affecting the human body, and to defend property, movable or immovable, against theft, robbery, mischief or criminal trespass. The right does not extend to inflicting more harm than is necessary (proportionality), nor against acts of public servants acting in good faith under colour of office (Section 37), and it requires that there be no time to have recourse to the protection of public authorities. Section 38 specifies when the right of defence of body extends to voluntarily causing death—such as a reasonable apprehension of death, grievous hurt, rape, gratifying unnatural lust, kidnapping, or wrongful confinement with apprehension that public help cannot be obtained. Section 41 governs causing death in defence of property in cases like robbery, house-breaking by night, or arson of a dwelling. Section 43 fixes the commencement and continuance of the right—it begins when a reasonable apprehension arises and lasts only so long as that apprehension continues. The right is a shield, founded on necessity, not a sword for retaliation or revenge.

7. An assailant, armed with a knife, lunges at a shopkeeper threatening to kill him. The shopkeeper, reasonably fearing for his life and with no chance to call the police, strikes the assailant a fatal blow. Under the BNS, the shopkeeper's act is:

- A. No offence, because a person may lawfully kill anyone who merely trespasses upon his shop premises.
- B. An offence, because the right of private defence can never extend to the voluntary causing of the assailant's death, on the facts as presently stated.
- C. An offence, because the shopkeeper was bound to flee or call public authorities before using any lethal force.
- D. No offence, because the right of private defence of body extends to causing death where there is a reasonable apprehension of death.

8. A thief snatches a purse and flees. The owner, after the thief has run a hundred metres and the snatching is plainly over, chases him down a deserted lane and beats him to death to recover the purse. Under the BNS, the owner's act is:

- A. An offence, because the right of private defence had ceased once the apprehension of further harm ended and the act became retaliation.
- B. No offence, because the right of private defence of property always extends to causing the death of a fleeing thief, on the facts as presently stated.
- C. No offence, because the owner was merely recovering property that the thief had unlawfully taken from him.
- D. An offence, because the right of private defence of property can never extend to causing death in any circumstances.

9. Which of the following statements about the right of private defence under the BNS is INCORRECT?

- A. The right is generally unavailable against an act of a public servant acting in good faith under colour of his office.
- B. The right entitles a person to inflict any quantum of harm he chooses, regardless of whether it exceeds necessity.
- C. The right to defend the body extends to defending the body of any other person against offences affecting the body.
- D. The right does not arise where there is time to have recourse to the protection of the public authorities.

10. A constable, acting in good faith and with apparent authority though on a technically defective warrant, attempts to arrest a man. The man, knowing the constable is a public servant so acting, beats him to resist. Under the BNS, the man's act is:

- A. An offence, because there is no private defence against a public servant acting in good faith under colour of office.
- B. No offence, because any defect whatsoever in a warrant immediately revives the full right of private defence against arrest.
- C. No offence, because a person may always resist an arrest he personally believes to be unjustified by force.
- D. An offence, because the right of private defence is never available against a police officer under any circumstances.

11. At night, an intruder breaks into a dwelling-house by force. The startled occupant, reasonably unable to know whether the intruder is armed and fearing grievous hurt, kills him during the break-in. Under the BNS, the occupant's act is:

- A. An offence, because causing death can never be justified unless the intruder first actually attacks the occupant.
- B. No offence, because defence of property extends to causing death where house-breaking after sunset and before sunrise is committed.
- C. An offence, because the occupant was obliged to retreat upstairs and telephone the police before resisting at all, on the facts as presently stated.
- D. No offence, because an occupant may lawfully kill any person who enters his property without his permission.

12. A man, mistaking a costumed reveller approaching him in the dark holding a realistic toy gun for an armed killer, and reasonably and genuinely apprehending death, shoots him. There was in fact no real danger. Under the BNS, the man's act is best regarded as:

- A. An offence, because a mistaken belief about danger, however reasonable, can never support a plea of private defence.
- B. An offence, because the right of private defence depends solely on the existence of actual danger, not on any apprehension, on the facts as presently stated.
- C. No offence, because the right of private defence rests on reasonable apprehension of danger, which existed despite no real danger.
- D. No offence, because the man may rely on private defence merely because he sincerely felt afraid, reasonable or not.

SECTION B — ANALYTICAL REASONING

Q13-20 · 8 Marks

PUZZLE 1 — CIRCULAR SEATING — EIGHT FRIENDS, SOME FACING THE CENTRE AND SOME FACING OUTWARD (Q13-16)



