

LL.M. DEGREE I SEMESTER EXAMINATION NOVEMBER 2010

SLS 2102 / 2104 FOUNDATIONS OF CONTRACTUAL LIABILITY

Time : 3 Hours

Maximum Marks : 50

(All questions carry EQUAL marks)

(5 x 10 = 50)

- I. A. "The factor which distinguishes contractual form from other legal obligations is that they are based on the agreement of the contracting parties". (Trietal) Examine whether this proposition is true.
- OR**
- B. "A contract is a promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty". (American Law Institute) Examine whether this definition is able to explain the nature and functions of contract.
- II. A. "A basic principle of the common law of contract.... is that the parties are free to determine for themselves what primary obligations they will accept". Lord Diplock, Photo Production Ltd. v. Securicor Transport Ltd. [1980] A.C. 827. Referring to this observation, examine whether the concept of freedom of contract has suffered any hostility due to the development of social policy.
- OR**
- B. Critically evaluate the statement that, "extrinsic evidence cannot be admitted to add, to vary or to contradict a written instrument".
- III. A. Do you think that, in standard form contracts the fundamental freedom of contract exists only on one side? Explain the safeguards provided by the law to overcome the risk.
- OR**
- B. "Covenants in a contract between private parties will seldom be invalidated on the ground that they are contrary to the public interest". (Anson, Law of Contract) Analyse with the help of decided cases, how the 'public interest' protect the society from such covenants detrimental to the community at large.
- IV. A. Do you agree that the contracts made with government departments are not subject to doctrine of ultravires? Examine how far the judicial approach is effective in administering justice in such cases.
- OR**
- B. 'In common law any act done by a corporation outside its statutory powers is ultravires and void'. Explain. Trace out the legal developments in this area to protect those persons who are dealing with a corporation.
- V. A. Distinguish between intermediate terms and conditions. Evaluate how far the breach of intermediate terms affect the validity of the contract.
- OR**
- B. "A person cannot acquire rights or be subjected to liabilities arising under a contract to which he is not a party". (Trietal, The Law of Contract). Critically evaluate the above proposition.