

LL.M. 3rd Semester Examination, 2018**INSURANCE LAW****Paper : 303E (Gr.-A)****Course ID : 32753****Time: 3 Hours****Full Marks: 80***The figures in the margin indicate full marks.**Candidates are required to give their answers in their own words
as far as practicable.**Answer any four questions.*

20×4=80

1. “The accident problem of our mechanical age calls for two things: accident prevention and the compensation of the victims of accidents that do happen. Analysis of the development of legal rules indicates that insurance has had relatively minor effects on these rules as such. A few modifications have occurred in respect to the rules of parental immunity, immunity between husband and wife, governmental immunity, and charitable immunity; but these modifications have not been accepted by the majority of courts. Considerable improvement has been noted in the area of direct suits by injured parties against insurance companies, but even there difficulties still exist.”— In view of the above, bring out the relationship between Law of Insurance and Law of Torts. What is need and importance of Insurance? 20
2. “A man is interested in a thing to whom advantage may arise or prejudice happen from the circumstances which may attend it; interest does not necessarily imply a right to the whole or a part of a thing, ... but the having some relation to or concern in the subject of the insurance, which relation or concern by the happening of the perils insured against may be so affected as to produce a damage, detriment or prejudice to the person insuring; and where a man is so circumstanced with respect to matters exposed to certain risks or dangers as to have a moral certainty of advantage or benefit, but for those risks or dangers, he may be said to be interested in the safety of the thing. To be interested in the preservation of a thing, is to be so circumstanced with respect to it as to have benefit from its existence, prejudice – from its destruction.”— In the light of the above statement, critically examine the concept of ‘Insurable Interest’ with appropriate illustrations. Discuss in detail the Rights and Liabilities of the Insurer and the Insured. 20
3. “The life insurance policy issued by the LIC states that the sum assured is payable upon the happening of the event, namely, ‘on the stipulated date of maturity if the life assured is then alive or, at his death if earlier.’ Thus the risk covered is ‘death’ which may cover in any manner before the stipulated date, that is including suicide sane or insane. Here also the risk covered is subject to recognised exceptions as in other branches of insurance. The risk can also be extended or curtailed by express terms of the policy.”— In view of the above, discuss in detail the

circumstances affecting the risk and the amount recoverable under a Life Insurance Policy. What is the procedure for settlement of claim and payment of money under a Life Insurance Policy?

4. “Nothing in the law of insurance is of more importance than the implied warranty of seaworthiness, with a view both to the benefit of commerce and the preservation of human life; in a question of seaworthiness, honesty of intention is no answer, but the fact of seaworthiness must appear, or otherwise the underwriter is discharged and though a vessel after sailing encounters a storm, yet, unless the damage which unfits her for the voyage can be fairly considered as the effects of the storm, the implied warranty is not complied with”.— In the light of the above statement discuss the underlying principles of Marine Insurance specifically highlighting the implied warranty of seaworthiness. What is Voyage-Deviation? Discuss its effects on a Marine Insurance Policy. 20

 5. “The object behind section 140 is to enable expeditious disposal of a claim petition. The said object would be defeated if the Tribunal was required to hold regular trial in the same manner as was necessary for adjudicating a claim petition. It is a measure of social justice to channelize socio-economic life of the people. Access to justice is thus guaranteed to dependants of victims of motor accidents. Access to courts is an aspect of social justice; in the words of KRISHNA IYER, J, as he then was, ‘we should expand the jurisprudence of access to justice as an integral part of social justice’.”— In view of the above, critically analyse the Role of Motor Accidents Claims Tribunal for providing compensation under the Motor Vehicles Act, 1988 including the Constitution, Functions and Powers of the said Tribunals. 20

 6. Write short notes on *any two* of the followings: 10×2=20
 - (a) Types of Insurance
 - (b) Premium
 - (c) Perils at Sea
 - (d) Insurance against Third Party Risk
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