

**NINTH SEMESTER LL.B. (FIVE YEAR) AND FIFTH SEMESTER
LL.B. (THREE YEAR) DEGREE EXAMINATION, MAY 2011**

LABOUR LAW—II

Time : Three Hours

Maximum : 80 Marks

Part A

I. Answer any five questions. Each question carries 4 marks :

- (a) Explain the concept of social security. How was social security in ancient times? What was the impact of industrialisation on social security? What is the modern concept of social security?
- (b) According to Article 41 of the Indian Constitution "The State shall within the limits of its economic capacity and development make effective provision securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement and other cases of unserved wants". Thus social security constitutes an important step towards the goal of a welfare state. Discuss the legislative efforts in India since independence towards the goal of social security for the workers here.
- (c) The Preamble of the Constitution of the I.L.O. is, "Whereas universal and lasting peace can be established only if it is based upon social justice," Discuss the objectives and activities of the I.L.O. based on social justice and social security and its activities in India especially in the field of technical assistance and other allied matters.
- (d) What is the scope of the Factories Act, 1948 as a social security legislation providing for the health, safety, welfare, working hours, leave of workers and prohibitions regarding employment of young people in factories.
- (e) Discuss the benefits provided to female employees under the Maternity Benefit Act, 1961.
- (f) Discuss the scope of the Kerala Shops And Commercial Establishment Act, 1960 as a piece of Regional Social Security Legislation safeguarding the welfare of the employees in matters relating to their age, working hours, sanitation, precaution against accidents, hours of rest etc.

(5 × 4 = 20 marks)

Part B

II. Answer any three problems. Each problem carries 10 marks : —

- (a) The driver of a tractor was crushed to death under the tractor in an accident arising out of and in the course of employment. When his parents claimed compensation, the claim was rejected by the Commissioner on the ground that the deceased workman was never paid any salary by his employer and he was throughly dependent upon his family for his support. Examine whether the decision of the Commissioner is correct.

Casual
Radhamony V. Seay, H. N.
2011 (1)

Turn over

- (b) A workman was employed as an electrician in a printing press. As part of his duty he had frequently to go from a heating room to a cooling plant where the temperature was considerably low. While on duty, when he had been in the cooling plant he suddenly fell ill due to pneumonia developed from the chilled atmosphere of the plant and consequently he died after a short illness of 5 days. His widow claimed compensation for personal injury resulting in death. Decide. *Gov. V. Lax*
- (c) A workman while returning home after the days work was assaulted by a mob during a communal riot and died. The question for consideration was whether the injury caused to the employee in this way amounted to personal injury caused by accident arising out of and in the course of his employment coming within the purview of the Employees's State Insurance Act, 1948. The claim for insurance benefit under the Employee's State Insurance Act was objected on the ground that the place of accident was not located within the limits of the factory premises. Decide. *National Bank S Ltd v. Yarn*
- (d) An employee who was retrenched from service was subsequently engaged for wages for broken periods whenever work was available. No monthly salary was paid to him. The question for consideration was whether such a person was an employee within the meaning of the payment of Gratuity Act, 1972 and whether he could claim his service to be continuous for claiming benefits under the Act. Decide.

(3 × 10 = 30 marks)

Part C

III. Answer any two questions. Each question carries 15 marks :

- (a) "The liability to pay compensation under the Workmen's Compensation Act, is not a liability arising out of tort, but it is a liability which springs out of the relationship of master and servant". Discuss, stating how and when the employer becomes liable to pay compensation and what is the criterion for measuring the quantum of compensation payable to the workman referring to the relevant provisions of the Act.
- (b) Examine the provisions of the Payment of Wages Act and the Minimum Wages Act and discuss how far they are social security legislations serving the purpose of social justice. Explain "Living wages", "Fair wages" and "Minimum Wages".
- (c) "Acto personalis mortis cum personal" (personal action dies with the death of the injured person); Discuss how far the Fatal Accident Act, 1855 is a social security legislative effort to supersede the ill effects of the application of this maxim in deaths caused by fatal accidents.
- (d) "The Payment of Bonus Act, 1965 is a social security legislation to maintain peace and harmony between labour and capital by allowing the employees to share in the prosperity of the establishment...." Discuss.

(2 × 15 = 30 marks)