



**3<sup>rd</sup> SURANA & SURANA AND Dr. RAMAIAH**  
**NATIONAL TORT LAW MOOT COURT &**  
**JUDGEMENT WRITING COMPETITION, 2020**



**13 – 15 March 2020**

**Moot Problem**

1. Excel Telefilms is a company registered under the provisions of the Indian Companies Act, 2013. It is *inter alia* engaged in the business of providing subscription based internet streaming service through its website and app- Excel TV. It also produces movies, television series, reality shows etc. for streaming it online.
2. In May 2019, the creative team of Excel came up with a proposition of a new reality show called 'Back to Nature'. The concept of the show was quite unique and fascinating. Twelve people from different walks of life were to compete against each other in a series of events over a period of 12 weeks. The contestants would include celebrities such as actors, models, athletes along with few participants from the general public.
3. Interestingly, the entire show was to be shot, at a remote secluded sparsely inhabited island called 'Paradise Land'. The island has a magnificent variety of flora & fauna including some breath-taking scenic spots. The fact that the location, was not a very active tourist location also meant that the shooting could be carried out peacefully without any hassles. The picturesque island was finalised for the reality TV show.
4. Laura is an upcoming artist and the winner of Singing Sensation for the year 2019. Having performed in several cities across the country, Laura had made her mark in the music industry. Her impressive talent earned her quite a huge fan following. Laura was in talks with GMT Inc. an international music events management / production house for a global music tour wherein she would feature in concerts across several countries, starting from January 2020. The production house instructed her to complete her assignments and keep herself free of commitments by end of November 2019 and keep them posted of her schedule.
5. Excel Telefilms approached Laura to be a part of the show 'Back to Nature' as a celebrity participant. Initially Laura was not very keen on the project. However, after much deliberations and discussions she agreed to be a part of the show, hoping that it would help her widen her fan base, considering the huge number of viewers Excel TV had.
6. Laura informed GMT Inc. of her plan to participate in 'Back to Nature'. GMT Inc. expressed displeasure at her decision and warned her to stick to the advised time schedule. Ignoring their warning Laura decided to go ahead with "Back to Nature" at Paradise Island.
7. The shooting of the Show began on 01.07.2019 at Paradise land wherein the participants would stay as long as they are a part of the Competition. Laura was far from impressed with the facilities at the accommodation. However, she chose to remain silent as she knew that any qualms she made about the place would portray her in bad light.

8. In less than two weeks of the commencement of the shooting, Laura developed rashes, redness, swelling, pain and itching of her skin along with high grade fever.
9. As the island was situated in a remote location, it took some time for the medical team to arrive. The doctors diagnosed Laura as having a bacterial infection that is very common in Paradise Island. As a matter of fact, they were amazed that the rooms were not fumigated to avoid such risks.
10. Laura was shifted to a hospital where she was admitted and was provided medical care for the next couple of days. Owing to the infection, Laura developed acute laryngitis and was unable to speak coherently. She was devastated as she had to cancel her global tour and forfeit her dream of making it global.
11. Upon being discharged, Laura instituted a civil suit against Excel before the Civil Court, Bengaluru for negligence. She contended that Excel owed a duty of care towards her, as she was under their care and custody during such time that she was at Paradise Island. The act of Excel not taking adequate precaution and safeguards is a clear case of breach of duty. This has resulted in a huge loss to Laura which she has quantified at Rs. 1 crore. She computed the same on the following heads:
  - a. Medical expenses: Rs. 10 Lakhs
  - b. Loss of revenue on account of cancellation of tour: Rs: 50 Lakhs
  - c. Loss of income: Rs. 15 Lakhs
  - d. Pain and suffering: Rs. 25 Lakhs
12. Excel entered appearance and filed its written statement contending that they were under no specific obligation towards Laura as the arrangement amongst them was purely commercial in nature. They further alleged that on account of Laura not taking precautionary measures, she is guilty of contributory negligence. In addition to the same, Excel pleaded the defence of Vis Major and contended that the damages not being foreseeable at all, no liability could be fastened upon Excel.

The Pleadings are complete and the Case is posted for final argument.

NB: Participants are at liberty to frame the issues.