

Bihar Judiciary - Mains 2011

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EVIDENCE AND PROCEDURE

Q1. (a) Mention the persons entitled to exemption from personal appearance in court under the Civil Procedure Code. (b) Explain the provisions relating to exemption from arrest under the Civil Procedure Code.

Q2. (a) Explain the meaning of the following: (i) Decree (ii) Legal Representative (iii) Public Officer (b) What are the provisions under the Civil Procedure Code relating to suits by or against government.

Q3. (a) Write note on the following: (b) What remedies are available for setting aside ex parte decree?

Q4. Write note on: (i) Estoppel (ii) Conclusive proof (iii) Cross examination (iv) Circumstantial Evidence

Q5. (a) Explain the meaning of: (i) Proved (ii) Disproved (iii) Not proved (b) Explain an accomplice. How far and to what extent the testimony of an accomplice can be relied upon?

Q6. Explain the provisions relating to disputes which can be referred to arbitration.

Q7. What are the powers of court for granting interim relief to the parties in respect of arbitration?

Q8. (a) Explain the grounds on which the appointment of an arbitrator may be challenged. (b) Under what circumstances an arbitral award may be set aside by the Court.

Q9. (a) "Bail can only be a matter of discretion if the offence is non-bailable and the scope of discretion depends upon various considerations." Discuss. (b) When can the Magistrate cancel the order of interim maintenance to wife?

Q10. (a) When can police arrest a person without warrant? (b) What are the guidelines laid down by the Supreme Court for police while arresting a judicial person?

CONSTITUTION

Q1. What are the distinguishing features of Unitary and Federal Constitution? Do you agree with the view that the Indian Constitution is federal in nature? Discuss.

Q2. Discuss the meaning and scope of fundamental rights to equality before law and equal protection of laws within the territory of India. Also discuss the basis and test of reasonable classification under Article 14.

Q3. Discuss in brief the legislative relations between Centre and State. When and in what circumstances can Parliament legislate on matters enumerated in State list?

Q4. On what grounds can President of India make a proclamation of national emergency under Article 352 of the Constitution? What are its consequences? Discuss with reference to the relevant amendments and case law on the subject.

Q5. Discuss the procedure by which constitution of India can be amended. Can Parliament take away or abridge the Fundamental Rights by Constitutional amendments? Discuss with the help of relevant cases.

Q6. What is meant by Parliamentary Privileges?

HINDU AND MOHAMMADAN LAW

Q1. Discuss the sources of Hindu Law. Outline the three main differences between mitakshara and dayabhaga school.

Q2. Discuss the concept of marriage under Hindu Law. What are the factors which nullify the marriage?

Q3. What are the various grounds of divorce under Hindu Marriage Act, 1955? Discuss.

Q4. Write short notes on: (i) Hindu Undivided Family (ii) Essentials of a valid endowment

Q5. What are the effects of adoption? Can adoption be revoked?

Q6. Discuss various sources of Muslim Law.

Q7. Write short notes on: (a) Iddat (b) Mutawalli (c) Acknowledgement (a) Iddat

Q8. Discuss the law relating to Waqf under Muslim Law.

Q9. Describe the provisions relating to divorce under Muslim Law. Can a Muslim woman take divorce from her husband?

Q10. Explain the various forms of marriages under Muslim Law. Also enumerate the points of distinction between them.

LAW OF TRANSFER OF PROPERTY AND PRINCIPLES OF EQUITY INCLUDING THE LAW OF TRUST AND SPECIFIC RELIEF

Q1. What do you understand by transfer of property? Explain the law relating to transfer of property by an unauthorized person.

Q2. With the help of illustrations, explain the doctrine of election. Also discuss the essential conditions as laid down in Section 35 of TP Act, 1882.

Q3. What do you understand by license? How is it different from lease? Explain

Q4. What is mortgage of immovable property? Discuss the law relating to redemption of mortgage.

Q5. Define sale and explain the essential conditions of a valid sale. X transfers to his wife a land worth rupees three lakhs in discharge of her future maintenance. Is it a sale? Explain your answer.

Q6. Discuss nature, origin and growth of equity.

Q7. Explain the following maxims: (a) He who seeks equity must do equity. (b) Delay defeats equity (a) "He who seeks equity must do equity"

Q8. Define and explain trust. How does trust come to an end?

Q9. Explain the rights and duties of a trustee.

Q10. What do you understand by injunction? Explain different kinds of injunction.

LAW OF CONTRACTS AND TORTS

- Q1. "An offer cannot be accepted unless and until it has been brought to the person to whom it is made." What is an offer? When is the communication of an offer completed? Illustrate with judicial decisions. Distinguish between offer and invitation to treat.
- Q2. The two fundamental propositions of English law are 'privity of consideration' and 'privity of contract'. Elaborate the two principles and their acceptability in India.
- Q3. The question whether the contract is void or voidable presupposes the existence of a contract within the meaning of the Act, and cannot arise in the case of an infant. In this context, explain the nature of a minor's agreement and its effectiveness. Can a minor be allowed to enforce a contract which is of some benefit to him? Explain.
- Q4. "An agreement to do an impossible act in itself is void." Referring this statement, explain the doctrine of frustration and specific grounds of frustration.
- Q5. Every party injured by the breach of a contract may bring an action for damages and every action for damages raises certain problems. Discuss the problem raised in every action for damages.
- Q6. The rule in *Rylands v. Fletcher* is interpreted in light of the constitutional provisions by the Supreme Court in *M.C. Mehta v. Union of India* (1987) 1 SC 395. Explain the rule laid down in *Rylands v. Fletcher*. In reference to the said rule, elaborate the corresponding development in India with reference to the aforementioned statement.
- Q7. Sir Barnes Peacock, Former Chief Justice of Supreme Court of Calcutta, in *P&O Steam Navigation Company v. Secretary of State for the Indian Council*, held the government liable for damages for injury due to negligence of some of its servants, as far back as in 1861. Subsequently, this decision was overruled in *Kasturilal and Ralia Ram* and the theory of sovereign immunity was upheld. In regard to this, discuss the concept of sovereign immunity and its development till date, with the help of judicial decisions.
- Q8. "In an action for malicious prosecution, the plaintiff has to prove, first, that he was innocent, and second, that there was want of reasonable and probable cause." What is malicious prosecution? Explain the essentials to be proved in a suit for damages for malicious prosecution.
- Q9. "The duty to take care arise out of various relations which it may not be possible to enumerate exhaustively and the courts recognize "new duties" when they think that to be just." In reference to the "new duties" in the above statement, elaborate the concept of duty of care with reference to duty of care in medical profession.

COMMERCIAL LAW

- Q1. (a) "A buyer cannot acquire a better title to the goods than what the seller has." Explain it and discuss the important exceptions to this rule. (b) What do you mean by delivery? Discuss the rules regarding delivery of goods.
- Q2. Define the following: (a) Sale and agreement to sell (b) Conditions and warranties (c) Unpaid seller
(a) Sale and Agreement to Sell
- Q3. (a) Distinguish between transfer by negotiation and transfer by assignment. (b) Does a material alteration of a negotiable instrument make it void? Is there any exception to this rule? Explain. What are the effects of following alterations? (i) Date alteration (ii) "Three months after" altered "three months after sight"

Q4. (a) Who is a holder in due course? What rights are available to him as such holder? (b) Explain the penal provisions regarding a cheque that bounces for insufficiency of funds.

Q5. (a) Discuss the positions of company directors. (b) Under what circumstances can winding up of a company by the court be possible?

Q6. What do you mean by memorandum of association? How can an object clause be altered? Discuss the effect of "doctrine of ultra vires" on alteration of memorandum.

Q7. (a) What do you mean by misstatement in prospectus? Discuss the liability for misstatement in prospectus. (b) What are the kinds of winding up of company? Explain in detail.

Q8. (a) What are the essentials of partnership? Explain the doctrine of holding out and discuss its exceptions. (b) Can a minor be admitted to partnership? If so, what will be his rights and liabilities during his minority and after he has attained majority?

Q9. What are the rights and obligations of a retiring partner? Explain in detail.

Q10. (a) Under what circumstances can a partnership be dissolved by court? (b) What are the consequences if partnership firm is not registered?