

## Bihar Judiciary - Mains 2021

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### LAW OF EVIDENCE AND PROCEDURE

Q1. (a) Explain the meaning of the following: (i) Mesne profit 1(a)(ii) Indigent Person 1(b) Describe in detail the law relating to place of filing a civil suit.

Q2. (a) What is temporary injunction? When and under what circumstances it can be granted? 2(b) Enumerate various properties which are exempted from attachment in execution of a decree under Code of Civil Procedure.

Q3. (a) Distinguish between the following: (i) Decree and Order 3(a)(ii) Review and Revision 3(b) Distinguish between the following: (i) Counterclaim and set off 3(b)(ii) Commission and Receiver: ### GROUP- B

Q4. (a) What is Dying Declaration? When is a Dying Declaration admissible in evidence? 4(b) Write notes on the following: (i) Hostile Witness (ii) Leading question

Q5. Distinguish between the following: (a) Latent and Patent Ambiguity 5(b) Judgment in rem and judgment in personam 5(c) Discuss the relevancy of evidence of character in criminal and civil cases.

Q6. (a) What do you understand by Burden of Proof? On whom the burden lies in following instances: (i) A has given a loan of 1000 to B. B says that he returned 1000 to B in presence of C. (ii) A has killed B. The defence of B is that he has exercised his right of private defence. (b) What are the facts which need not be proved by the parties? ### GROUP-C

Q7. (a) Discuss the grounds for setting aside an arbitral award. (b) Write notes on: (i) Arbitration agreement (ii) Foreign Award

Q8. (a) What are the rules regarding removal of Arbitrator? Can an appointed arbitrator be removed by the parties or court? (b) Distinguish between the following: (i) Arbitration and Judicial Adjudication (ii) Conciliation and Negotiation ### GROUP- D

Q9. (a) What is Charge? Can a Court alter a Charge? If so, how and when? 9(b) Distinguish between the following: (i) Cognizable and Non-Cognizable Offence

Q10. (a) Discuss the procedure for disposal of the cases adopted by the Small Cause Courts under the Provincial Small Cause Courts Act, 1887. 10(b) Whether the Small Cause Courts Act competent to hear following cases: (i) A suit for relief of divorce (ii) A suit for dissolution of partnership

### CONSTITUTIONAL AND ADMINISTRATIVE LAW OF INDIA

Q1. It is fallacious to think that Directive Principles and Fundamental Rights are opposed to one another in their ultimate objectives. They are in fact complementary and supplementary to each other and both striving to secure socio-economic welfare by ensuring a social order in which justice and individual liberty are safeguarded. Discuss this statement with the help of decided cases.

Q2. Freedom of press plays a pivotal role in the democratic set up of the country. Discuss this statement in the light of the relevant provisions of the Indian Constitution along with the aspects of freedom of circulations, commercial advertisement and electronic media, as laid down by the Indian Judiciary.

- Q3.** Since literal approach of supreme court in A.K. Gopalan case, a sea change has taken place while giving meaning and content to the provisions of Article 21 of the Constitution by the courts. Discuss in detail on the important developments mentioning the changing shape of Article 21 by Apex Court through various pronouncements.
- Q4.** Judicial decisions in the matters of appointment of judges and their transfer have resulted in maintenance of independence of judiciary. Critically analyse this statement and cite relevant case laws.
- Q5.** The Indian Constitution seeks to create an exclusive area for the centre, exclusive area for states and a common concurrent area for states and centre. Explain the distribution of powers between centre and states in the light of this statement. ### Group-B
- Q6.** On what grounds delegated legislation can be declared substantively ultra vires? Also discuss the permissibility and impermissibility of the rule making powers of the executive. Give relevant cases.
- Q7.** The most significant and outstanding development of the 20th century is the rapid growth of administrative law. In this century, the philosophy as to the role and function of state has undergone a radical change. In the light of this statement discuss in detail the development and evolution of administrative law.
- Q8.** Differentiate among the doctrines of legitimate expectation, proportionality, collateral purpose and mala fide with the help of relevant case laws.
- Q9.** How the tribunal is distinct from a court? Explain the constitution, powers and procedures of administrative tribunals and scope of judicial review.
- Q10.** The term Public Interest Litigation was first used by Professor Abram Chayes in 1976, to refer to cases seeking social change through court's directive which articulated public norms of governance and enforced the public norms. In the light of the above statement, discuss: (a) Meaning and scope of Public Interest Litigation (b) Public Interest Litigation in India with reference to relevant legal provisions and case laws.

## LAW OF CONTRACTS AND TORTS

- Q1.** (a) The distinction between void and illegal agreements under the Indian Contract Act is clear and logical. Explain referring to provisions of the Act (b) What do you understand by wagering agreement? What are its essential characteristics?
- Q2.** (a) The definition of proposal as given in Section 2(a) of the Indian Contract Act is not that of a valid proposal but it is a definition of all kinds of proposals. Critically evaluate the statement and substantiate your answer with appropriate illustrations. 2(b) State the contracts not specifically enforceable.
- Q3.** (a) The factory workers go on strike. The management of the factory announced that additional payments will be made to workers, who will continue to work during strike period. When the strike ended, the management refused to make additional payments to such workers. Discuss remedies available to such workers, if any, under the Indian Contract Act. 3(b) A, a singer enters into a contract with B, the manager of a club, to sing at his club, two nights in every week, during the next two and B engages 1000 for each night's performance. On the sixth night, A wilfully absents herself from the club. Can be put an end to the contract? 3(c) What is the difference between general and specific offer?

- Q4. (a) The principle of law as to contractual competency of a minor established in *Mohari Bibee v. Dharmodas Ghose* has been partially modified in a case *Mathai Mathai v. Mary Joseph*, AIR 2014 SC 2277. Do you agree with this? Explain. 4(b) What is meant by standard form of contract? What protective devices have been evolved by the Courts to save an individual from such contract? Discuss.
- Q5. (a) A bailment arises from contract. It cannot arise independent of contract. Explain this statement with reference to judicial decisions. 5(b) What are the obligations that law creates in the absence of the agreements? Explain concerning sections with the help of illustrations. ### Part-II
- Q6. (a) The law sometimes recognizes no fault liability. Discuss. What are the rules laid down by English and Indian Courts in this connection? What is the measure of damages in such cases? 6(b) Distinguish between tortious and contractual liability.
- Q7. (a) Critically examine the development of law relating to remoteness of damages. Which test would you prefer for deciding the question regarding remoteness of damages? Give reasons for your answer. (b) A asks for a lift from a motorist B. A is told by B- "I am not an expert driver. I am without licence too. You may travel at your own risk." A travels with B. Later, the motor vehicle collides with a bus due to defective breaks of B's vehicle. A sues B for injuries suffered by him in the accident. B takes the plea of *volenti non fit injuria*. Decide, after discussing the whole law relating to the maxim.
- Q8. (a) Explain the principle of contributory negligence with illustration. What are the defences available in a case of contributory negligence? 8(b) Explain the following: (i) *Ubi jus ibi remedium* 8(b)(ii) *Actio personalis non oritur actio*
- Q9. (a) In order to constitute public nuisance there must be an act or illegal omission, and it is not necessary that act should be illegal. Explain the offence of public nuisance with the help of decided cases. 9(b) The employees of the telecommunication department open a manhole on the street for the purpose of maintaining underground telephone equipment. In the evening they left the manhole unguarded but covered with a tent. They place warning paraffin lamps around the tent. A, a boy of eight years and B, a boy of ten years, took a lamp and entered the manhole. As they entered, the lamp was knocked into the hole and a violent explosion took place with flames reaching up to 30 feet in air. A, was knocked back into the hole where he sustained serious burns A's father filed a suit against the telecom department for damages. Will he succeed?
- Q10. (a) Discuss the principle of law laid down in *Rylands v. Fletcher* and state the applicability of principle in present scenario. 10(b) Explain with the help of decided cases, the rule of *res ipsa loquitur*. 10(c) Discuss the principle of law laid down in *Donoghue v. Stevenson*

## TRANSFER OF PROPERTY AND PRINCIPLES OF EQUITY INCLUDING THE LAW OF TRUSTS AND SPECIFIC RELIEF

- Q1. (a) Definition of immovable property in Section 3 of the Transfer of Property Act 1882 is not complete. It is negative in sense and appears to be an explanation. Explain and give a complete definition in the light of this statement. 1(b) B had a licence to collect fish from lake of A, the owner of an estate. B had paid the amount of licence to A, the owner of the lake. The Orissa government passed the Orissa Abolition of Estates Act, 1951, due to this the lake vested in the state of Orissa. Under this Act, the Orissa government did not recognize B's right to collect fish from the lake. In the petition to claim the right, B's contention was that fish is a movable property, hence the Act does not apply. Decide

Q2. (a) What do you understand by transfer by ostensible owner? What are the statutory requirements for the application of rule of transfer by ostensible owner? Whether this rule is subject to the provisions of the Benami Transactions (Prohibition) Act, 1988? 2(b) A mortgaged his property to B by a registered deed on 1.12.2010 for a consideration of 15,000. The terms of the mortgage transaction were that (i) the mortgagee and his heirs or legal representatives are hereafter entitled to use, enjoy and lease the said property under the ownership right and (ii) that the executant shall pay the amount within a period of 5 years. In case, he fails to repay, he, his heirs or legal representatives will have no right to take back the said property. B was put in possession and he sold the portion of property to C. A filed a suit to take back the property as he filed a suit within 5 years. Decide the nature of the transaction and rights of A and C.

Q3. (a) What is subrogation? Who can subrogate? Discuss the essential conditions of subrogation? 3(b) When does the right to sue for recovery of mortgage money accrue in favour of the mortgagee?

Q4. (a) How can a lease be determined? Whether notice to the lessee is essential for determination of lease? 4(b) What are the conditions of a valid gift? Whether, when a gift once accepted may be suspended or revoked?

Q5. (a) Transferability is an essential nature of property, whether by operation of law or act of parties. But no one can transfer a property in such a manner that it will destroy its essential nature. Discuss 5(b) Explain the exceptions, if any, that 'once a mortgage always a mortgage'. ### Part-II

Q6. (a) What do equitable rights and interests mean? Explain the nature and characteristics of such rights. 6(b) Discuss the classification of equity jurisdiction.

Q7. Explain the following maxims: (a) Equity looks at the intent rather than the form 7(b) Equity aids the vigilant, not the indolent 7(c) Where the equities are equal, the first in time shall prevail

Q8. (a) Explain conversion and reconversion 8(b) Discuss the equitable relief on the ground of mistake. 8(c) Who may be beneficiary?

Q9. (a) What is a charitable trust? What are the requirements of a charitable trust? Classify the charitable objects. 9(b) A Hindu testator A bequeathed his wife as a sole executrix, instituting her as owner and directed that whatever is left of property after her death should go to the testator's two daughters in such a manner as she, the executrix, may like. Whether it is a legal trust?

Q10. (a) A person against whom the relief of specific performance of contract is claimed, may plead, by way of defence, any ground which is available to him under any law relating to contract. What are those grounds of defence which are available to person against whom the relief of specific performance is claimed? 10(b) Who may obtain specific performance of contract?

## HINDU LAW AND MUHAMMADAN LAW

Q1. What do you mean by adoption? Explain the requisites of a valid adoption. Discuss the changes brought about by the Hindu Adoption and Maintenance Act, 1956.

Q2. Discuss the grounds of divorce under Hindu Law. Whether a Hindu male after his acquittal in trial for Section 498A of IPC can seek divorce from his wife under the Hindu Law?

Q3. Who are the guardian under the Hindu law. Discuss their powers and functions with special reference to their power of alienation.

Q4. Write notes on the following: (a) Antecedent debts

- Q5. What do you mean by partition? Discuss various modes of effective partition. Under what circumstances partition can be re-opened? ### PART-II
- Q6. What are the various sources of the Muslim Law? Discuss the relevance of modern sources in present scenario.
- Q7. Muslim marriage is not a sacrament, but purely a civil contract. Explain. Discuss the approved classification of marriages under the Muslim Law.
- Q8. What is guardianship under Muslim Law? Who are entitled to act as guardian under the Muslim Law? Distinguish between guardianship and hizanat.
- Q9. What do you mean by legitimacy and legitimation under Muslim Law? Discuss the rules of valid acknowledgment with reference to status of adoption under the Muslim Law.
- Q10. Discuss the term Hiba with reference to its requisites under the Muslim Law. Distinguish between Hiba-bil-iwad and Hiba-ba-shartul-iwaz.

## COMMERCIAL LAW

- Q1. (a) Discuss the doctrine of nemo dat quod non habet. Explain all the exceptions which apply to this doctrine. 1(b) Who is called an unpaid seller? What are various rights available to an unpaid seller under the Sale of Goods Act, 1930? Explain.
- Q2. (a) What do you understand by condition and warranty in a contract for sale? Distinguish between the terms conditions and warranties? When is breach of condition treated as breach of warranty? 2(b) A asked B, a medicine merchant, for a hot water bottle and inquired if it would stand hot boiling water. B sold an American rubber bottle to A saying that it would stand hot boiling water. The bottle which was purchased by A for his wife, bursts and injures his wife. A sues B for damages. Decide the issue with reason. ### Group- B
- Q3. (a) What do you mean by negotiable instrument? Discuss its characteristics and kinds. Explain essentials of a cheque. 3(b) A document contained "received from Mr. and Mrs. T Claydon, the sum of 10,000 as a loan to be paid back in full by July 1, 1983 with interest rate of 20 percent per annum". Explain whether this document amounts to a promissory note or not. Give reason.
- Q4. (a) What do you mean by the terms holder and holder in due course? Discuss the rights and privileges of holder in due course. 4(b) What do you mean by presentment? What are the rules of presentment in context of time and place? Explain the situation when presentment is not necessary. ### Group- C
- Q5. (a) Define memorandum of association of a company. Discuss its contents. Make distinction between memorandum of association and articles of association. 5(b) What do you understand by doctrine of indoor management? Explain the exceptions to this doctrine.
- Q6. (a) Who can appoint a director in a company? Explain the conditions precedent to such appointments. Discuss the duties of directors. 6(b) What are different types of meetings in a company? Explain and discuss the formalities to be fulfilled for such meetings.
- Q7. (a) Discuss the composition of the National Company Law Tribunal. Critically examine the status and powers of the National Company Law Tribunal. 7(b) Discuss the rationale and qualifications of 'independent directors'. Comment on the role of an independent director. ### Group-D

**Q8. (a) What are the essentials to the constitution of partnership? Discuss and explain why mutual agency is considered to be the true test of partnership. (b) What do you understand by goodwill of a firm? Discuss the provisions of Partnership Act, 1932 relating to use and sale of goodwill of a firm.**

**Q9. (a) What do you mean by implied authority of partner? Discuss what can be done by a partner under implied authority. 9(b) A, a managing partner appoints X as a lawyer to defend a suit brought against the firm without an express consent of remaining partner. Does this fall under implied authority? Discuss in the light of legal provisions.**

**Q10. (a) What do you mean by dissolution of Partnership Firm? What are various modes of dissolution of partnership firm? 10(b) How can a partner retire from a partnership firm? Discuss the rights and liabilities of a retiring partner under the Partnership Act, 1932.**