

Gujarat Judiciary - Mains 2011

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Paper I (Civil)

Q1. Describe different modes of settlement of disputes outside the Court under Section 89 of the Code of Civil Procedure. OR Write a note on principle of Res Judicata under Section 11 of the Code of Civil Procedure. OR Write a note on territorial jurisdiction under the Code of Civil Procedure.

Q2. Write short notes on any two of the following : - Exclusion of time consumed in the proceedings bona fide in Court without jurisdiction for computing the period of limitation. - Effect of acknowledgment in writing on limitation. - Extension of period of limitation under Section 5 of the Limitation Act. - Adverse possession.

Q3. Write short notes on any two of the following : - What agreements are contracts ? . - Who are competent to contract ? - Explain the term "free consent" under Section 14 of the Contract Act, 1872. - Explain the term "consideration" as defined under Section 2(d) of the Indian Contract Act, 1872.

Q4. Define partnership and discuss requirements of valid partnership. OR Write short notes on the following : - Partnership at will. - Dissolution of firm.

Q5. Write a note on specific performance of contract. OR Write short notes on the following : . - Contracts which cannot be specifically enforced.

Q6. What are the provisions made in Section 138 of the Negotiable Instruments Act with respect to dishonour of cheque ? OR Write short notes on the following : - Who are the persons deemed to be guilty in case the person committing offence under Section 138 of the Negotiable Instruments Act is a Company ?

Q7. Write an essay on any one of the following in English only. - Role of a Judge in achieving speedy trial.

Q8. Translate the following paragraph into Gujarati : - The law relating to bail is contained in Sections 436 to 450 of chapter XXXIII of the Code of Criminal Procedure, 1973. Section 436 deals with situation, in what kind of cases bail should be granted. Section 439 deals with the special powers of the High Court or the Court of Sessions regarding grant of bail. Under Sections 437 and 439 bail is granted when the accused or the detenu is in jail or under detention. - The provision of anticipatory bail was introduced for the first time in the Code of Criminal Procedure in 1973. The Code of Criminal Procedure, 1898 did not contain any specific provision of anticipatory bail. Under the old Code, there was a sharp difference of opinion amongst the various High Courts on the question as to whether the Courts had an inherent power to pass an order of bail in anticipation of arrest, the majority of view being that it did not have such power.

Q9. State whether the following statements are true or false : - Period of limitation for challenging the decree obtained fraudulently is three years from the date of knowledge of the plaintiff. - In the event of dishonouring of cheque, notice for recovery shall have to be given before expiry of 15 days period before filing complaint under Section 138 of the Negotiable Instruments Act. - Registration of partnership firm is a must for filing the suit by the firm in the Court of law. - On compromise between the parties in a Civil Suit, prior to settlement of issues, 2/3TM of the total amount of Court fees would be refundable. - Temporary injunction is not the relief available under the Specific Relief Act, 1963. - Breach of promise to marry a person entitles him to get damages under the law of Contract. - Payment of subsistence by the third party to the minor can be recovered from his (minor) assets under the Contract Act. - In the event of death of a party, the suit shall abate on non joining of his heirs within 60 days of the date. - Once arguments of both sides are concluded, delivery of judgement is a must within 15 days of the date of conclusion under the Code of Civil Procedure. - Upon passing an order of civil imprisonment against the defendant, such order cannot be executed till plaintiff pays subsistence allowance.

Paper II (Criminal)

Q1. What are the provisions made under Section 125 of the Code of Criminal Procedure for maintenance of wives, children and parents ? OR Write short notes on the following: - Alteration in allowance of monthly maintenance fixed under Section 125 of the Code of Criminal Procedure.

Q2. Write a note on powers of a Magistrate to grant bail under the Code of Criminal Procedure. OR Write short notes on the following : - Power of Magistrate in granting police remand. - Provisions made under Section 156 of the Code of Criminal Procedure regarding Police Officer's power to investigate cognizable offence.

Q3. Write short notes on any two of the following - Offence of causing death by negligence. - Difference between simple hurt and grievous hurt. - Abetment of an offence. - Difference between criminal breach of trust and dishonest misappropriation of property.

Q4. Write a note on right of private defence. OR Difference between common intention and common object.

Q5. Write a note on presumption under the Evidence Act. OR Write a note on confessional statement by the accused.

Q6. Write notes on any two of the following with reference to the Indian Evidence Act: - Facts which need not be proved - Expert's opinion - Primary and Secondary evidence

Q7. Write short notes on any two of the following with reference to the Protection of Women from Domestic Violence Act : - Powers of the Magistrate to give monetary relief. - Powers of the Magistrate to pass custody orders. - Duties and functions of the Protection Officers. - Penalty for breach of protection order.

Q8. Write short notes on any two of the following : - Power of the Court to release certain offenders on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958. - Bail of juvenile under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000. - When can the Metropolitan Magistrate or a Judicial Magistrate of the First Class take cognizance of offence under Section 28 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 ? - "Brothel", its definition and penal provision under the Immoral Traffic (Prevention) Act. - "Gambling", its definition and penal provision under the Gujarat Prevention of Gambling Act.

Q9. State whether the following statements are true or false : - Under Section 50-A of the Code of Criminal Procedure, it is - optional for the police officer to inform arrested-person of his right - Under Section 53-A of the Code of Criminal Procedure, Court can use force as is reasonably necessary for examination of person arrested of charge of rape. - Presiding Officer has the right to ask only relevant questions to the witnesses under Section 165 of the Evidence Act. - In the event of more than one dying declarations of the deceased, none can be admitted in the evidence during the Court process. - Legitimate or illegitimate daughter can ask for maintenance from father even after she becomes major, if she is unable to maintain due to injury. - When application for anticipatory bail is made, existence of complaint is a must. - Discovery of article at the instance of accused under Section 27 of the Evidence Act is not an incriminating circumstance. - Communication of a client to the lawyer is a privileged communication under all circumstances. - Punishments prescribed under Section 53 of the Indian Penal Code are - death; imprisonment for life; Imprisonment, rigorous and simple; forfeiture of property; fine. - Under Section 65-A of the Indian Evidence Act, the contents of electronic records may be proved in accordance with the provisions of Section 65-B of the said Act.