

Haryana Judiciary - Mains 2010

15 questions. Source: lawmock.com - free previous-year papers & mock tests.

Civil Law - I

Q1. - (a) Explain constructive res judicata with aid of suitable illustrations? - (b) In a previous ex parte decree against the municipality only. B who had obtained lease of the same land from the municipality prior to the institution of such suit was not, However, made a party to that suit. 'B' brought a subsequent suit against 'A' and the municipality disputing A's right to remain on the land and interfere with the construction works. Will the decree passed in favour of 'A' operate as res judicata against 'B' in the subsequent suit? - (c) What do you understand by set-off? Explain equitable set-off distinguish between legal and equitable set-off. - (d) What is the proper place of suing in the following cases? - (i) a suit by a guardian for the custody of his ward; (ii) a suit for damages for the custody of his ward; (iii) a suit against a corporation; (iv) a suit for mesne profits; - (v) a suit for specified performance of a contract of sale of immovable property; (vi) a suit for a tort.

Q2. - (a) What is the procedure to be adopted in case of execution of decree against the Government or a public officer? - (b) for how much period a person can be detained in the civil prison in execution of a money decree and when he is to be released from such detention ? Can he be released from such detention before the expiration of the said period? - (c) Can a Member of either House of Parliament, or a Member of Legislative Assembly or a Member of any Parliamentary Committee be arrested and detained under the civil process. If no, under which contingencies? - (d) On what ground can the sale of immovable property in execution of a decree be set aside? At whose instance such sale can be set aside.

Q3. - (a) An agreement is unlawful if the Court regards it as opposed to public policy. In the light of this statement discuss (i) meaning of public policy and (ii) when an agreement is said to be against public policy? Whether Courts have evolved any new head of public policy for giving relief to weaker section of society in standard from contract? - (b) Mr. 'A' who lives in Ambala gives his motor-cycle to his friend 'B' for going to Kurukshetra. 'B' instead of going to kurukshetra drives the motor-cycle for going to Chandigarh. He drives the motor-cycle with reasonable care. While coming back from Chandigarh to Ambala he met with an accident and motor-cycle is totally damaged. Can 'A' claim damages from 'B'. Give reasons. - (c) In a document executed between 'A', 'B', 'C' and 'D', it was provided that 'D' would be in charge of the firm and get Rs.200/- per month and devote his whole time to it, he would also get 10 per cent of the net profits of the firm, but would get no share in the surplus profits of the firm, which were to be equally divided between 'A', 'B' and 'C' only. Is 'D' a partner of the firm? - (d) How and when may a partner retire ? What are the liabilities of a retiring partner and what is the effect of such a retirement on the rights of the parties?

Q4. - (a) Explain what is preventive relief. What are the provisions governing the grant injunction? - (b) Examine whether or not perpetual injunction shall be granted in following cases:-- (i) Where plaintiff prays that his standing crop is likely to be harvest very soon by defendant? (ii) Where injunction prayed for, is for enforcement of an obligation arising from breach of contract, which be specially enforced? (iii) where alternative efficacious remedy is available? (iv) where plaintiff conduct is unconscionable? - (c) Carefully distinguish between a 'condition' and a 'warranty' and enumerate the circumstances in which 'condition' can be treated as 'warranty'. - (d) 'A' contracts to sell a heap of bones to 'B', weighs and delivers them at 100 rupees per ton. 'B' agrees to take and pay for them on a certain day. Part of the bones is weighed and delivered to 'B'. On whose risk does the residue lie?

Q5. - (a) What do you understand by 'Privileged Communications'? Answer with the aid of suitable illustrations. - (b) A witness is compelled to state a matter, which will expose him to a criminal charge. If he speaks the truth, can he be prosecuted on the basis of his own statement in the Court? If he makes a false statement, can he be prosecuted for giving false evidence? - (c) "The rules of Evidence are in general the same in Civil and Criminal Proceedings". Comment and state if there are any exceptions to this rule. - (d) (i) Can the functions of receiving and registering cases and appeals be assigned Additional District Judge and if so, by whom? (ii) Who may define the local limits of Civil Judges (Sr. Division) and Civil Judges (Junior Division)? Give your answers with the aid of illustrations.

Civil Law - II

Q1. - (a) Define and explain the following terms as referred to in the Hindu Marriage Act: - (i) "full blood" and "half blood" (ii) "uterine blood" (iii) "Sapinda relationship" - (b) Critically examine the special grounds of divorce available to a Hindu wife under the Hindu Marriage Act, 1955. - (c) How would the separate property of the deceased be distributed under Mitakshara law in the following cases? Explain by giving reasons. - (i) A Hindu dies, leaving behind a widow, an adopted son and an after born natural son. (ii) A Hindu dies, leaving behind a widow and a son of a predeceased son. (iii) A Hindu dies, leaving behind a mother's sister's and a father's half-sister's son. - (d) Explain what is deemed partition under the Hindu Succession Act, 1956.

Q2. - (a) (i) In what cases may an adopted son impeach alienations made by the widow of his adoptive father prior to his adoption? (ii) 'G' an unmarried girl of 20 years adopts a boy of 7 years. Is the adoption valid? (iii) 'A' with the consent of his wife validly adopts 'B'. Later on 'B' started misbehaving and beating 'A' and his wife. 'A' wants to cancel the adoption of 'B'. Comment. - (b) What is the law regarding the maintenance of a widowed daughter-in-law? - (c) Discuss the law relating to the custody of a child by the mother, under the Hindu Minority and Guardianship Act, 1956, in the light of the latest development in law. - (d) 'X' is acting as defacto guardian of a Hindu child aged 12 years. 'X' intends to dispose of the property of such child. Can he do so? Refer to the provisions of the Hindu Minority and Guardianship Act.

Q3. - (a) Define wakf. What are the legal incidents of a valid wakf. - (b) 'B' a Muslim wife seeks dissolution of her marriage with 'A' on the grounds that 'A' neglected to maintain her for a period of 2 years. In fact, 'B' had voluntarily left 'A', brought a second wife. Decide the claim of 'B'. - (c) Marriage amongst Muslims is 'not a sacrament but a civil contract'. Flucidate. - (d) What do you understand by Punjab Customary Law. How much is this relevant with regard to marriage and divorce after the codification of Hindu Law?

Q4. - (a) Discuss the law relating to the computation of the period of limitation prescribed for any suit, appeal or application and exclusion of time bona fide spent in pursuing proceedings in a Court having no jurisdiction. - (b) 'A' advanced Rs.10,000/- to 'B' on simple mortgage of his property on 1.1.1977. The period of repayment was one year from the date of the mortgage. In December 1980, 'A' died leaving 'C', a minor son aged one year. In 1998, 'C' filed a suit for sale of the mortgaged property. Is the suit within time? If so, explain. - (c) 'A' borrowed a sum of money from 'B'. The last date for filing the suit fell on Sunday. On next day i.e. Monday 'A' gave a written acknowledgement to 'B'. Should 'B' file the suit immediately on Monday or he can file it after some time? Advice. - (d) Enumerate the nature and category registration whose registration is optional.

Q5. - (a) State with reasons whether registration of following documents is compulsory: - (i) Sale certificate given by court. (ii) General Power of Attorney. - (b) How do you distinguish between divorce and judicial separation? - (c) How does the Hindu Marriage Act provide for the legitimacy of children of voidable marriage? - (d) 'X' a Hindu male aged 18 years married 'Y' a female aged 14 years. The marriage was consummated when 'Y' was 17 years. Will she be entitled to get decree of divorce under the Hindu Marriage Act?

Criminal Law

Q1. - (a) Examine as to whether a person who causes the death of a pregnant woman is guilty of committing one homicide or two. - (b) "Whereas in criminal conspiracy an agreement between two or more persons is needed in abetment by conspiracy an agreement between them is enough. "Examine". - (c) In order to pick the pocket of 'B', 'A' inserted his hand into the pocket of 'B', which touched the trigger of the loaded pistol kept in B's pocket. The pistol went off, killing B. Discuss criminal liability of 'A'. - (d) 'A', a police officer, made a false entry in the special diary relating to a case which was being investigated by him, but the document in which the alleged false entry was made was not the one which was admissible in evidence. Can he, in the circumstances, be connected for fabricating false evidence?

Q2. - (a) "In all robbery, there is either theft or extortion". Explain. - (b) What offences have been committed in the following cases and by whom? - (i) 'A', with a guilty intention, abets a child or lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as 'A'. The act is not committed. (ii) 'A' knows 'Z' to be behind a bush. 'B' does not know it. 'A' intending to cause or knowing it to be likely to cause 'Z's' induces 'B' to fire at the bush. 'B' fires and kills 'Z'. (iii) 'A' instigates 'B' to set fire to a dwelling house. 'B', in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of 'A's' instigation. (iv) 'A', intending to cause a theft to be committed, instigates 'B' to believe that the property belongs to 'A'. 'B' takes the property out of 'Z's' possession in good faith, believing it to be 'A's' property. - (v) 'A' offers a bribe to 'B', a public servant, as a reward for showing 'A' some favour in the exercise of B's official functions. 'B' accepts the bribe. (vi) 'A' instigates 'B' to give false evidence. 'B', in consequence of the instigation, gives false evidence.

Q3. - (a) The Right to Private Defence is said to be a limited right. Explain the limitations of the Right to private defence. 'A' was under attack from 'B'. 'A' had ample opportunity to save himself by fleeing away but instead 'A' defended himself and thereby caused harm to 'B'. Is it a valid exercise of the right of private defence? - (b) Is homo-sexual relation between two consenting adults is an offence? Discuss. - (c) Explain the distinction between Acquittal and Discharge. - (d) Explain with illustration the following: - (i) When can the Court alter or amend charge? What is the consequence of a defect in the framing of charge? (ii) What charge is to be framed if it is doubtful as to what offence has been made out?

Q4. - (a) In what circumstances a person can be arrested without warrant? What measures and precautions are required to be taken while arresting a person, as directed by the Supreme Court? - (b) Can a person on being examined by a police officer investigating a case, refuse to answer a question relating to such asked to him by such police officer? - (c) Determine the place of trial in the following cases: - (i) Where an offence is continuing one and continues to be committed in more local areas than one. (ii) 'A' ensured in the compartment somewhere between 'A' and 'B' ensured in the compartment somewhere between Lucknow and Moradabad, where 'B' got down. On reaching Delhi, 'A' broke his journey and lodged FIR against 'B'. - (d) Can a bail granted under Section 167(2) of Cr.P.C. be cancelled by the Magistrate suo motu on presentation of challan report under Section 173, Cr.P.C. against the accused?

Q5. - (a) What are the essential conditions of a valid dying declaration. When a dying declaration is considered as not admissible. Give illustration. - (b) What is expert opinion? Explain the evidentiary value of expert opinion. - (c) A witness is asked in cross-examination whether he was dismissed from service for dishonesty. He denies. Evidence is offered to show that he was dismissed for dishonesty. Is the evidence admissible? - (d) Can the following statements be used for corroborating a witness: - (i) A statement in FIR lodged by the witness about the commission of an offence, based on personal observation. (ii) A former statement of the witness before a Magistrate made during police investigation. (iii) A statement recorded as dying declaration in a case where the deponent survives and is called as witness in Court. (iv) A previous statement of an accomplice before a Magistrate after he has been granted pardon.