

Haryana Judiciary - Mains 2011

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Civil Law - I

Q1. - (a) What is the difference between res sub judice in Section 10 and res judicata in Section 11 of the Code of Civil Procedure, 1908? - (b) What causes of action can be joined without the leave of the court, to a suit for recovery of immovable property? - (c) 'A' agrees to sell and deliver to 'B' 500 Kgs. of sugar at the rate of Rs.50 per Kg. on date 'X'. On the same day he agrees to sell and deliver to 'C' a like quantity of sugar at the same rate on the same date. Can 'B' & 'C' join together as plaintiff's in one suit against 'A' and if not, then why not? - (d) What are the powers given by Section 94 to a Civil Court for preventing the ends of justice from being defeated?

Q2. - (a) What are the alternative methods of dispute resolution in the Civil Procedure Code, 1908? - (b) 'A' is a tradesman in Calcutta. 'B' carries on Business in Delhi. 'B', buys goods of 'A' through his agent in Calcutta and requests 'A' to deliver them to the Indian Railways. 'A' deliver the goods accordingly in Calcutta. Where can 'A' sue 'B' for the price of the goods delivered by him to 'B'? - (c) When can a civil court impose costs by way of compensation and costs for causing delay? - (d) How has the Code of Civil Procedure 1908 defined the following:- - (i) summary procedure, (ii) mesne profits, (iii) judgement and order, (iv) Legal representative.

Q3. - (a) Yamuna Developers Pvt Ltd. (YDPL) contracted with Jaipur Tiles Ltd. (JTL) for supplying various kinds of tiles to its Green Valley Project with actual cost of Rs.50,00,000. JTL fulfilled its own part but YDPL had paid only Rs.20,00,000. After one year, Jtl agreed to accepts Rs.20,00,000 in satisfaction of its claim of Rs.30,00,000. Later on JTL filed a suit for the enforcement of contractual obligation. Decide the case on the basis of relevant legal provisions and case law. - (b) Contract for the sale of a horse is entered into on the condition that the buyer should have it for eight days for trial and be at liberty to return it at the expiration of that period if he did not find it suitable. The horse dies without any fault on the part of either party, three days after it was delivered to the buyer for trial. Whether contract can be enforced? - (c) Discuss the law relating to privity of Contract in English and Indian Law with its qualified exceptions. Discuss relevant case laws. - (d) Write the short notes on following:- - (i) Unjust enrichment (ii) Holding Out.

Q4. - (a) (i) Mr. and Mrs. Kaur are running a Legal Aid Clinic. Whether is it kind of partnership? Discuss. (ii) What is implied authority of partner? In what circumstances implied authority cannot be used by partner? - (b) What are the rights of surety against creditors ? Discuss with the relevant provisions of Indian Contract Act. - (c) What are the rights of unpaid seller against goods ? How the rights of unpaid seller will vary in case of part delivery of goods? - (d) Explain the circumstances along with relevant provisions of the Statute as to when the Civil Court may order a licensed petition-writer to Rewrite any petition written by him?

Q5. - (a) Digvijay proceeds against Srijayan in a civil court claiming compensation for the injury caused to him. He adduces the following evidence in addition to other documentary and oral evidence. Decide whether following facts are relevant and admissible? - (i) The judgement of the Criminal Court convicting Srijayan for causing grievous hurt by rash and negligent driving; (ii) The advice note given in confidence by the public prosecutor who had instructed Digvijay to make certain statements during his deposition. - (b) Rajesh, a student got marks-sheet from Haryana Education Board, showing that he had passed in biology, physics and chemistry with good marks. Rajesh, as a matter of fact had never opted or appeared for biology. However, he remained silent and sought admission in 1st year of MBBS course at Guru Nanak Dev Medical College. When he had to appear in his 1st professional course of MBBS, Haryana Board realising the error, served a notice on him for wrong mark-sheet. Subsequently, the Medical College cancelled his admission. Rajesh consults you for using estoppel against Haryana Board. Give your opinion with reasons. - (c) Enumerate the situations when leading questions can be asked during Examination-in-chief and Re-examination. Also point out when it is not allowed during cross-examination. - (d) Can a Judge base his judgement on answer to irrelevant matters? What are the restrictions on the power of the Court to compel a witness to produce any document?

Civil Law - II

Q1. - (a) Two Hindus got married in a temple. Several years and after the birth of three children, they get the marriage registered under the Special Marriage Act. A year later husband claims that certain ceremonies were not performed and hence the marriage was void. Decide after giving arguments for both the sides. - (b) What are the de-merits of testamentary disposition of property? While answering. Keep in mind particularly the rights of vulnerable persons in the family. - (c) A wife becomes pregnant through artificial insemination using the husband's sperm without his permission. Husband and wife have not met in two years. The child is born with severe disabilities. Husband denies the child to be his. Decide.

Q2. - (a) Calculate the shares of X's heirs assuming he had only HUF property when he died on 1.1.2000 leaving a widow, a mother, a step mother, two sons, two married daughters (one married in 1980 and the other in 1989), one unmarried daughter, ten grandchildren of whom four are children of a predeceased son and a predeceased daughter married in 1990 (each having a son and daughter). Give reasons for inclusions, exclusions and quantum of shares. What is the nature of property in the hands of each heir? X has left behind considerable debts also. Who should pay the same and to what extent? These are his debts:- To workers Rs.30,000/- To temple priests for ceremonies Rs. 10,000/- To local shopkeeper for groceries Rs.3,000/- To local liquor shop Rs. 5,000/- In the light of this, how far does Mitakshara law play a role in Hindu Law? - (b) What is the status of Rita in the following cases: - (i) Nita and Rita are twins. Rita was born 15 minutes later than Nita. They were both adopted by a childless Hindu Hindu Park's on the east and west side of the plot. 'X' constructed his house in April, 1985 after getting the building plans sanctioned from Municipal Council, Karnal and kept windows on both sides of the house. In the year 2004, 'A' started digging foundations in the open space abutting the 'west' side of the 'X's house, claiming to be its owner on the plea that it was allotted to him by the Rehabilitation Department in lieu of the properties left by his deceased father in West Pakistan. 'X' institutes a civil suit on 3.10.2006, claiming easement rights by prescription. Soon thereafter, Rehabilitation Department also issued a public notice for the auction of a residential plot, which as per the description given was abutting the house of 'X' on east side. 'X' institutes another civil suit on 1.1.2007 against the Rehabilitation Department, claiming the easementary rights. Explain with the support of case law;- - (i) Whether 'X' has acquired absolute and indefeasible right to easement against 'A'? (ii) Whether 'X' has acquired absolute and indefeasible right to easement against the Rehabilitation Department, Haryana? (iii) What are the essential conditions to claim such like easement rights under the Limitation Act, 1963? - (b) 'Justice has emanated from nature. Therefore, certain matters have passed into custom by reason of their utility. Finally the fear of law, even religion, gives sanction to those rules which have both emanated from nature and have been approved by custom'. What is the relevance of this statement of Cicero in Indian Legal System? - (c) How does a custom originate? Write briefly the role of the Supreme Court in preserving and developing the customs of the people?

Criminal Law

Q1. - (a) Mohan was an Engineer by profession. He was a bachelor and had lost his parents in an accident, when he was a small child. In 1995, Mohan met with a terrible accident where he was involved in a car crash, in which his legs were stuck in the efforts, doctors managed to extricate him from the debris. But, he remained in a coma. There was no improvement in his condition till March 2005. The doctors treating him were in a fix as to whether they should turn off his life support system. On April 10, 2005, a young girl was admitted to the hospital in which Mohan was being treated. She had multiple organ failure and required an urgent kidney and liver transplant. Mohan was known to be an activist who, before his accident, fought for the cause of organ transplantation. He had even received awards for his work in encouraging people to donate their kidneys and eyes. The doctors (a team of eight) took decision to remove one of Mohan's kidneys and a part of his liver and transplant it into the young girl. After the surgery was completed, Mohan miraculously regained consciousness. He sought to prosecute the doctors who operated on him and contended that the doctors were, inter alia, guilty of various offences under Indian Penal Code. Address the following issues: - (i) Mohan seeks to prosecute the doctors under Section 379 of IPC. HE also seeks to prosecute them under Section 392 and 395 of IPC. Will he succeed? Give reasons. (ii) Can the doctors take up necessity as a defence? Give cogent reasons. - (b) Samaresh was a student of National Institute of Epidemiology. One day, after completing his term examination, he decided to go to a local pub and have a drink. By the time he returned from the pub, he was highly intoxicated and in that state of intoxication, he entered the room of his neighbour in the hostel and set his matters on fire. He was charged for offences under sections 436 and 447 of the Indian Penal Code. He wants to plead intoxication as a defence. Advise him on the present law along with contemporary judicial reasoning. - (c) Explain the offence of criminal conspiracy. How is it punishable? Distinguish between abetment and conspiracy.

Q2. - (a) Discuss the Constitutional validity of section 497 of IPC in the light of case law. - (b) Discuss the Fifth Exception to Section 499 IPC and the law relating to Contempt of Court in the Light of case law. - (c) Can an offence committed outside India, be tried in India under Indian Criminal Law (IPC & Cr.P.C.)? Explain in the light of case law. - (d) Write a brief note on the nature of burden of proof on an accused who takes plea of insanity, under the Indian Penal Code. Do you think that fairness demands that burden on Prosecution should not be heavier? Refer to post Malimath development.

Q3. - (a) A Hindu girl aged 17 years studying in B.A. was living under the care and protection of her parents. She was in intimacy with a shopkeeper named Mahesh running a shop near house. One day the girl left her house and went to Mahesh and asked him to take her away permanently. Who took her away to several places. He handed her over to one of his friend, Mr. Rimal who took her to Kolkata where he was arrested. Discuss the liability of Rimal and Mahesh. Can they be prosecuted under section 363 of the Indian Penal Code? Give reasons with relevant authorities. - (b) Jagat Singh gave orders to a press to print 100 forms similar to those formerly used by a Coal Company. He had corrected the first proof and also suggested further corrections in the second proof in order to make it appear exactly like the form used by the Coal Company. At this stage Jagat Singh was arrested and charged with the offence of having attempted to make a false document. Decide and give reasons. - (c) Amar Singh was arrested by custom officers while in possession of a suitcase which he believed to contain prohibited drugs whereas on analysis the drugs in the suitcase were found to be only snuff or harmless vegetable matter. Amar Singh had admitted to the custom officers after his arrest that he was dealing in the prohibited drugs. He was charged under section 511 of the Indian Penal Code, with attempting to commit the offence of being knowingly concerned in dealing with and harbouring prohibited drugs. Decide and give reasons. - (d) How the trial of warrant cases instituted on police report is different from cases instituted otherwise than on police report? Elaborate the procedural differences between the two.

Q4. - (a) "Every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately". Identify the aforesaid provision of Cr.P.C. and discuss seven exceptions to this rule. - (b) Outline the cardinal provision of Code of Criminal Procedure at the time of commencement of proceedings before magistrates that uphold the virtue of fair trial. - (c) Discuss provision of bail available to an under sections 436 and 437 of Cr.P.C. vis-a-vis Section 436A inserted by the Code of Criminal Procedure (Amendment) Act, 2005. Evaluate the significance of insertion of section 436A in Cr.P.C. - (d) Write short notes on the following:- (i) Difference between "Discharge" and "Acquittal". (ii) Effect of "Error in Framing Charge".

Q5. - (a) List the situation when evidence of bad character can also be given. Do you think that Indian Law of evidence is based on law and not on logic? - (b) State the provisions of law and give reasons as to relevancy of the following facts: - (i) In a case of homicide against 'X', prosecution produces a statement of 'Y'. "I heard the cries and saw the dead body". (ii) In case of an identity of a carcass recovered from a pond, 'the production of super imposed photograph of deceased over the skeleton' by the prosecution. - (c) What is the evidentiary value of FIR and in what cases FIR may become substantive evidence? - (d) (i) Arun, on his trial before the Court of Sessions, says that a deposition was improperly taken by Bir Singh, the MAgistrate. Can Bir Singh be called as a witness and compelled to answer the questions as the deposition which is alleged to be improperly taken? (ii) If Arun is an accused before the Court of Sessions of attempting to murder while on his trial before Ram Singh, a Session Judge. Can Ram Singh be examined as to what happened before him.