

Jharkhand Judiciary - Mains 2014

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Law Paper - I

Q1. - (A) Define the court which passed a decree and explain the provisions for transfer of decree for execution. [10 Marks] - (B) What is the doctrine of Res Judicata ? Under this doctrine when trial of the suit can be stayed by a court ? [10 Marks]

Q2. - (A) Where a necessary person is not made a party to the suit ? [5 Marks] - (B) Where the plaintiff is not presented in a proper court ? [5 Marks] - (C) Where on the date of hearing, the defendant only appears before the court ? [5 Marks] - (D) Where all the reliefs have not been claimed in one suit ? [5 Marks] ### Section B

Q3. - (A) "For every distinct offence of which any person is accused, there shall be a separate charge and every such charge shall be tried separately." Explain and illustrate this rule. [10 Marks] - (B) "Is a defective charge necessarily fatal to conviction. Discuss. [5 Marks] - (C) 'A' states on oath before the Magistrate that he saw 'B' hit 'C' with a club. Before the Session Court 'A' states on oath that 'B' never hit 'C'. May 'A' be charged and convicted accordingly for intentionally giving false evidence ? Decide and refer to relevant provisions of the Code. [5 Marks]

Q4. - (A) What are the conditions when a Magistrate may take cognizance of any offence ? State also the cases where no court shall take cognizance unless some conditions are fulfilled. [15 Marks] - (B) "No appeal would lie unless provided by law." Discuss the statement and refer to relevant provisions of the Code of Criminal Procedure, 1973. [5 Marks] ### Section C

Q5. - (A) Mens-rea is an essential element in every crime.' Explain this rule and state to what extent it is applicable to the offences under the Indian Penal Code, 1860. [10 Marks] - (B) 'A' and 'B' are brothers who were found quarrelling and abusing each other on a public road in a town and a large crowd gathered and the traffic was temporarily suspended. Discuss the criminal liability of 'A' and 'B' and support your answer with provisions of I.P.C. [5 Marks] - (C) 'A' puts jewels into a box belonging to 'Z', with the intention that they may be found in the box and that this circumstance may cause 'Z' to be convicted of theft. Has 'A' committed any offence ? If so, discuss the criminal liability of 'A'. [5 Marks]

Q6. - (A) Critically examine the impact of the offences amended and inserted into the Indian Penal Code, 1860 by the Criminal Law (Amendment) Act, 2013 to protect women against: a) Sexual Harassment and b) Rape. [10 Marks] - (B) 'All murders are culpable homicide but all culpable homicides are not murder.' Explain and illustrate. Refer to decided case law. [10 Marks] ### Section D

Q7. - (A) "Oral evidence is excluded by documentary evidence." Explain this rule and state the exceptions, if any, to this rule. [10 Marks] - (A) Can evidence be given to contradict a witness in the following cases ? (10 Marks) - (i) Witnesses asked whether he was dismissed for dishonesty from service ? He denies. - (ii) A witness is asked whether his family had blood-feud with the family of 'B' against whom he was giving evidence ? He denies.

Q8. - (A) "When a witness is asked and answers any question which is relevant only to shake his credit, then as a general rule no evidence can be given to contradict him". Comment and describe the exceptions, if any, to this general rule. [10 Marks] - (A) Which of the following statements are relevant as 'Admission' ? (10 Marks) - (i) 'A' undertakes to collect rents for 'B'. 'B' sues 'A' for not collecting rent due from 'C' to 'B'. 'A' denies that rent was due from 'C' to 'B'. - (ii) 'A' sells a horse to 'B'. 'B' asks-whether a horse is sound ? 'A' says to 'B' - "Go and ask C, 'C' knows all about it". 'C' tells about soundness about horses. ### Section E

Q9. - (A) What are the circumstances under which a certain period of time is excluded while computing the limitation period ? Explain. [10 Marks] - (A) Advice 'A' in the following cases : (10 Marks) - (i) 'B' the debtor of 'A', promises to pay his debt in writing and signed by him on the last day of the limitation period. - (ii) 'B', the judgement debtor of 'A' prevents by fraud or force from executing the decree within the limitation period.

Q10. - (A) "Limitation bars the remedy, but does not destroy the right." Discuss the statement. [10 Marks] - (B) Advice 'A' in the following cases: (10 Marks) - (i) 'A's limitation period expires on a day on which the court is closed. - (ii) 'A' fails to file the appeal within the period of limitation due to illness.

Law Paper - II

Q1. - (a) "A contract can not be enforced by a person who is not party to it, even though it is made for his benefit." Explain and point out the exceptions to this rule. [15 Marks] - (b) A out of natural love and affection promises to pay his son Rs. 10,000. He puts promises in writing and registers it. How far is the contract valid ? [5 Marks]

Q2. - (a) Discuss the rule relating to damages laid down in the case of Hadley V. Baxendale. [10 Marks] - (b) "An agreement without consideration is void." Explain the rule and point out its exceptions. [10 Marks] ### Section B

Q3. - (a) Who is an unpaid seller ? What are the rights of an unpaid seller ? [10 Marks] - (b) Explain the doctrine of caveat emptor with its exceptions. [10 Marks]

Q4. - (a) Discuss The doctrine of "nemo dat quod non habet". What are the exceptions to this doctrine ? [15 Marks] - (b) 'A' finds a ring and after making reasonable efforts to discover the owner, sells it to 'B', who buys without knowledge that A was merely a finder. Can the true owner recover the ring from 'B' ? ### Section C

Q5. - (a) "A banker is bound to honour his customer's cheque." In the light of this statement discuss the liability of a banker for wrongful dishonour of cheque. [10 Marks] - (b) What is an endorsement ? Explain different kinds of endorsement. [10 Marks]

Q6. - (a) Discuss that a 'holder in due course' is a 'holder' but a 'holder' is not a 'holder in due course'. [10 Marks] - (b) Define 'Bill of Exchange'. How is it different from 'cheque' ? [10 Marks] ### Section D

Q7. - (a) Define an arbitration agreement. Distinguish between arbitration agreement and agreement for expert determination. [15 Marks] - (b) Ram and Shyam agreed in writing to resolve the disputes arising out of their contract by way of arbitration to be done by a tribunal consisting of two arbitrators, one to be selected by each party. An award was passed by the tribunal on a dispute submitted by the parties. Ram challenged the award. Decide. [5 Marks]

Q8. - (a) Discuss The grounds for setting aside an arbitral award. [10 Marks] - (b) Can ex parte order be passed by an arbitrator ? [10 Marks] ### Section E

Q9. - (a) Define subrogation. Who are the persons entitled for subrogation ? Distinguish between legal and conventional subrogation.[15 Marks] - (b) There is a contract to sell a house between 'A' and 'B'. 'B' files a suit against 'A' for specific performance of the contract. While the suit is pending 'A' sells the house to 'C' who does not have notice of pendency of suit. Suit is decreed in favour of 'B'. Can the decree be executed against 'C' ? [5 Marks]

Q10. - (a) "Once a mortgage is always a mortgage, nothing but a mortgage." Explain this rule and illustrate the circumstances which constitute clog on equity of redemption. [15 Marks] - (b) Distinguish between mortgage and charge. [5 Marks]

Law Paper - III

Q1. - (a) Pointing out the conditions of a valid Hindu marriage under the Hindu Marriage Act, 1955, state the effects of violation of each of those conditions on the validity of the marriage. [10 Marks] - (b) State with the help of decided cases, the grounds on which a decree of judicial separation may be obtained under the Hindu Marriage Act, 1955 and distinguish between a decree of judicial separation and a decree of Divorce. [10 Marks]

Q2. - (a) State the provisions relating to intestate succession of a female Hindu under the Hindu Succession Act, 1956. [15 Marks] - (b) Who will succeed to the self acquired property of a Hindu male dying intestate leaving behind him his father, mother, brother and a married daughter ? Explain. [05 Marks] ### Section B

Q3. - (a) State the Koranic heirs under Shia Law of inheritance and distinguish them with Sunni Law of inheritance. [10 Marks] - (b) Explaining the essential conditions of a valid gift under the Muslim Law, state the circumstances, if any, when transfer of possession is not necessary for making gift. [10 Marks]

Q4. - (a) With the help of decided cases and statutory laws explain the rights of maintenance of a Muslim divorced woman. [10 Marks] - (b) Stating the concept of presumption of legitimacy under Muslim Law, point out the differences between Muslim Law and Section 112 of Indian Evidence Act in this regard. [10 Marks]

Q5. Explaining the reasons for enactment of the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2011 state the provisions relating to regulation of rent under the Act. [20 Marks]

Q6. - (a) Point out the Landlord's responsibilities and Tenant's duties under the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2011. [10 Marks] - (b) State the provisions relating to eviction of a tenant under the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2011. [10 Marks] ### Section D

Q7. - (a) State the cases in which specific performance of a contract can be enforced and when can not be enforced. [15 Marks] - (b) 'A' contracts with 'B' to lend money to 'B' on a mortgage. Can specific performance of this contract be enforced ? Give reasons. [5 Marks]

Q8. Explain the various kinds of injunctions that can be issued under the Specific Relief Act, 1963. [20 Marks] ### Section E

Q9. - (a) Explaining the concepts of possession and ownership. Distinguish between them.[15 Marks] - (b) A's gold ring is dropped in a canal. B finds the ring. A claims the ring. Decide. [05 Marks].

Q10. - (a) Explain the concepts of General Jurisprudence and Particular Jurisprudence.[10 Marks] - (b) Stating the importance of custom as a source of law, point out the essential ingredients of a valid custom.[10 Marks]

Law Paper - IV

Q1. Write an essay on any one : - (i) Right to Information - (ii) Impact of Media - (iii) Cultural heritage of Jharkhand.

Q2. Read the following passage carefully and make it precise by giving a suitable title also. The great advantage of early rising is the good start it gives us in our day's work. The early riser finishes a large amount of work before other men are out of bed. In the early morning, the mind is fresh and there are few sounds or other distractions so that the work done at this time is generally well done. In many cases, the early riser also finds time to take some exercise in the fresh morning air and this exercise supplies him with a fund of energy that will last until the evening. By beginning so early the early riser knows that he has plenty of time to do his work and is not, therefore, tempted to do anything in a hurry. He goes to sleep several hours before midnight at the time. When the sleep is most refreshing and after a night's sound rest, rise early the next morning in good health.

Q3. Write a paraphrase of the following: If the people who are elected are capable and men of character and integrity, then they would be able to make the best ever of a defective constitution. If they are lacking in these, the constitution can not help the country. After all, a constitution like a machine is a lifeless thing. It acquires life because of the men who control it and operate it, and India needs today nothing more than a set of honest men who will have the interest of the country before them. It requires men of strong character, men of vision, men who will not sacrifice the interests of the country at large for the sake of smaller groups and areas. We can only hope that the country will throw up such men in abundance.