

## Uttar Pradesh Judiciary - Mains 2018

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### Law Paper - I (Substantive Law)

Q1. (a) "No person shall be deprived of his life and personal liberty except according to procedure established by law." Discuss with the help of decided cases. [15 Marks] 1.(b) Describe briefly the comparative position of the two Houses of Parliament. [10 Marks] 1.(c) What is money bill? Discuss the mode of passing of money bill. [10 Marks] 1.(d) Against whom Fundamental Rights are available? In this context, refer to the meaning of the term 'State' in Part III of the Constitution. [15 Marks]

Q2. (a) What do you understand by void and voidable marriage? In which circumstances a marriage becomes void or voidable? [10 Marks] 2.(b)(i) Describe in brief the classification of dower and explain the characteristics of widow's right of retention. [05 Marks] 2.(b)(ii) Distinguish between public Waqf and Private Waqf. [05 Marks] 2.(c) Discuss in brief, the doctrine of frustration as applicable in India and state the specific grounds of frustration of contract. Refer to statutory provisions and decided cases wherever relevant. [10 Marks]

Q3. (a) Who is an ostensible owner? What are the circumstances under which a transfer made by an ostensible owner shall not be voidable? [15 Marks] 3.(b) Write notes on the following: (i) Rules against perpetuity (ii) Immovable property [15 Marks]

Q4. (a) What are the rights of partners in the management and conduct of the business of a partnership firm? [15 Marks] 4.(b) Can a partner use the partnership property for his own private purpose and carry on competing business? If not, what is the result if he does so? [15 Marks]

Q5. (a) Explain the principle of contributory negligence with illustration. What are the defences available in a case of contributory negligence? [10 Marks] 5.(b) Describe the extent of the liability of the master for the torts committed by his servant. [10 Marks] 5.(c)(i) Explain the following maxims with illustrations: Res ipsa loquitur [05 Marks] 5.(c)(ii) Explain the following maxims with illustrations: Ubi jus ibi remedium [05 Marks]

Q6. (a) While stating the law relating to recovery of possession of immovable property, discuss the effect of combining the remedies available under Section 5 and 6 of the Specific Relief Act, 1963 in a single suit. [15 Marks] 6.(b) Stating the general principles on the basis of which temporary injunctions are granted, discuss the circumstances in which perpetual injunctions are granted by the Court. [15 Marks]

Q7. (a) Briefly state the various modes of creation of easement as laid down in the Easement Act. [10 Marks] 7.(b) What are different kinds of easement? Explain with illustrations. [10 Marks] 7.(c) Define easement and state its essential elements. [10 Marks]

Q8. (a) Can a Muslim woman divorce her husband? If so, under what circumstances? [10 Marks] 8.(b) Discuss the grounds of exclusion from inheritance under the Muslim Law. [10 Marks] 8.(c) What do you mean by 'pious obligation theory'? Discuss the liability of a son to pay off his father's debt. [10 Marks]

Q9. (a) What is a 'partial partition'? Describe the rules relating to partial partition. [10 Marks] 9.(b) Can a partition be re-opened? Explain the grounds on which a partition may be re-opened. [10 Marks] 9.(c) Define gift. Can a Karta of a joint family gift coparcenary property? Explain. [10 Marks]

**Q10. (a) Explain the difference between equitable interest and legal interest. [10 Marks] 10.(b) What are the circumstances, when a surety is discharged from his liabilities? [10 Marks] 10.(c) Explain the following maxims with illustrations : [10 Marks] (i) Equity will not suffer a wrong to be without a remedy. 10.(c) Explain the following maxims : with illustrations : (ii) Where equities are equal, the law shall prevail.**

### **Law Paper - II (Procedure and Evidence)**

**Q1. (a) On 2nd June, 2017, Ram Singh, a schoolteacher, was travelling from Lucknow to Gorakhpur by a motor bus no. 1540 of UPSRTC. He sustained serious injuries due to the negligence, misconduct and wrongful act of the driver of the bus, Mohd. Hakim, and the mechanic, attached with the bus by the corporation, Sunderlal (who was driving the bus at the time of accident). He with other casualties was admitted to Govt. Hospital of Gorakhpur. He lost one of his hands permanently. His medical treatment continued in different hospitals till 12.08.2018 and during this period, he could not perform his teaching work, household duties and cultivation. Now, Ram Singh wants to file a suit against the UPSRTC, the driver of the bus and the mechanic for a compensation of 25,00,000. Write a plaint for the plaintiff, Ram Singh, on the basis of the facts mentioned above. [20 Marks] 1. (b) Prepare a written statement for the defendant no. 1, the UPSRTC, answering the plaint made above under Question No. 1. (a) in the light of the following : "The main plea of the defendant no. 1 is that the defendant no. 3, Sunderlal, is merely a mechanic of the bus and he was not authorised to drive the bus by the defendant no. 1. There occurred some mechanical defects in the bus suddenly and the defendant no. 3 was authorised only to cure the defects but after curing the defect, he took the steering wheel in his hands in order to check the bus without any authorization and the bus met with the accident when he was driving the bus. Therefore, the corporation is not liable vicariously." [20 Marks] OR 1.(a) On 15.06.2018, the victim, a fourteen-year-old girl, was alone in her house situated at Lucknow and was preparing for her examination. The two accused named Dinu and Kallu were working in the house. They took advantage of the fact of her being alone. They raped her, strangled her by using her undergarments and caused injuries on her person with a sharp weapon. They threw her body into a septic tank at the back side of the house, which showed a disregard of respect for human dead body. The prosecution has demanded for death penalty for them on the ground that the matter comes within the category of the rarest of the rare cases. On the other hand, the accused have argued against it. Prepare a draft of charge against the accused into the matter. [20 Marks] 1.(b) On the basis of the facts in part (a), decide the matter and give your judgement. Also award the reasonable punishment. [20 Marks]**

**Q2. (a) Discuss the provisions of the Civil Procedure Code relating to the issue of Commission. Also give suitable illustrations. [20 Marks] 2.(b) Explain the rule of 'notice' prescribed in Section 80 of the Civil Procedure Code, 1908. Whether a right to notice could be waived? [10 Marks] 2.(c) On what grounds can a plaint be rejected by Court? Discuss. [10 Marks]**

**Q3. (a) State the provisions which govern the determination of the place of suing in relation to the suits for compensation for wrong to person. In relation to the following, determine the place of suing : A, B and C Jointly take a loan from D at Prayagraj on a promissory note payable on demand. D resides in Varanasi. A, B and C reside in Bareilly, Ghaziabad and Noida respectively. A, B and C fail to repay the loan no demand. [20 Marks] 3.(b) What do you understand by foreign judgement? When is it deemed to be conclusive? Discuss. [10 Marks] 3.(c) What do you understand by the misjoinder and nonjoinder of the parties? A enters into a contract with B to supply 100 quintals of sugar on 15.10.2018. The same day he agrees to supply to C and D separately the same quantity of sugar. A fails to supply sugar to all the three. Can all the three, i.e., B, C and D, join together in one suit as plaintiffs against A? [10 Marks]**

**Q4. (a) What is 'representative suit'? By whom and under what circumstances can such suit be brought? Is there any need to take consent of the persons who are to be represented? Discuss in the light of decided cases. [20 Marks] 4.(b) (i) A, who was a treasurer of an association, misappropriates the funds of the association. By a resolution of the association, B, a member, was authorised to recover the amount misappropriated. Can B successfully sue A ? Give reasons for your answer. [10 Marks] 4.(b)(ii) A, B and C were chosen by a community to represent them in a suit against K. But X, Y and Z, other members of the same community, supported the defendant K. Does it affect the representative character of the suit? Give reasons for your answer. [10 Marks]**

**Q5. (a) Discuss the limits within which the rule of 'res gestae' operates. How far the ambiguities involved in this rule have been removed under the Indian law? Explain. [20 Marks] 5.(b) Whether a photograph of an original is a secondary evidence even though the two have not been compared, if so when? Discuss the provisions of Law. [10 Marks] 5.(c) Discuss the meaning and utility of presumptions. Draw distinction between Rebuttable Presumption of Law and Irrebuttable Presumption of Law. [10 Marks]**

**Q6. (a) Write exhaustive but brief notes on any two of the following : (i) Hostile witness (ii) Leading questions (iii) Accomplice (iv) Relevancy of custom [10\*2=20 Marks] (i) Hostile Witness (ii) Leading Questions (iii) Accomplice (iv) Relevancy of Custom 6.(b)(i) Answer with reasons while mentioning the related decided cases : A, B and C are prosecuted for the murder and conspiracy to murder of D. As the principal evidence of the conspiracy, certain letters written by the accused to each other during the conspiracy are submitted. A statement made to the Examining Magistrate by B, giving an account of the conspiracy, after arrest, is also put in evidence. What is relevant-the letters or the statement or the both? [10 Marks] 6.(b) (ii) Answer with reasons while mentioning the related decided cases : A is charged with travelling on a railway without a ticket. On whom the burden of proof that he had a ticket shall lie? [10 Marks]**

**Q7. (a) Discuss the relevancy of judgements with the help of the provisions of the Indian Evidence Act, 1872 and reasonable illustrations. [20 Marks] 7.(b) When the evidence of an expert is to be admitted? What are the differences between an Expert and an Ordinary Witness? Discuss. [10 Marks] 7.(c) What do you understand by the word 'Court' used in the Indian Evidence Act, 1872? Discuss with the help of decided cases. [10 Marks]**

**Q8. (a) What will be the venue of trial in the following? (i) Where the offence has been committed in train during journey between Kolkata and Prayagraj. [05 Marks] 8.(a)(ii) Where the offence has been committed in the nature of cheating through letters between two persons situated at Meerut and Agra. [05 Marks] 8.(a)(iii) Where a boy is kidnapped from Prayagraj and first taken to Mumbai and then to Guwahati. [05 Marks] 8.(a)(iv) A abets B at Prayagraj to commit murder of C at Mumbai. B committed murder of C at Mumbai. [05 Marks] 8.(b) Discuss the modes of recording evidence in a Sessions' Trial. How does Summon Trial differ from Warrant Trial? Explain. [10 Marks] 8. (c) A police officer has no definite knowledge or definite information that A is in possession of an instrument of housebreaking. The police officer arrests A. Is A's arrest illegal even though an instrument of housebreaking may actually be found on searching after the arrest? Answer with reasons. [10 Marks]**

**Q9. (a) Under what circumstances is a Magistrate empowered to take action in connection with disputes concerning immovable property under Section 145 of the Code of Criminal Procedure, 1973? Explain. [20 Marks] 9.(b) Discuss the powers of the District Magistrate under Section 144 of the Code of Criminal Procedure, 1973. [10 Marks] 9.(c) What is the jurisdiction of the Criminal Courts in enquiries and trials under the Code of Criminal Procedure, 1973? [10 Marks]**

**Q10. (a) (i) Whether a Magistrate can ask any accused to give specimen signature or handwriting? Discuss with exception, if any. [10 Marks] 10. (a)(ii) Whether an accused in appeal from acquittal can be arrested and committed to prison pending the disposal of the appeal? Discuss. [10 Marks] 10.(b) What irregularities committed by a Court do not vitiate trial? Also discuss when it vitiates. [10 Marks] 10.(c) An accused is arrested in a bailable offence and he is released on bail. During trial, he absconds and non bailable warrants are issued against him. The police arrests him and produces him before the Court. The defence counsel pleads for his release on bail under Section 436 (1), Cr.P.C. which provides that a person accused of a bailable offence shall be released on bail. Can the Court, in such circumstances, refuse to release him on bail? Give reasons briefly. [10 Marks]**

### **Law Paper - III (Penal, Revenue and Local Laws)**

**Q1. (a) Discuss the conditions which are required to be fulfilled by a consolidation scheme. [20 Marks] 1.(b)(i) Explain the following as provided under the UP Consolidation of Holdings Act, 1953 : Declaration and notification regarding consolidation. [10 Marks] 1.(b)(ii) Explain the following as provided under the UP Consolidation of Holdings Act, 1953: Consolidation. [10 Marks]**

**Q2. As per the provisions of the UP Panchayat Raj Act, 1947, write notes on the following : (a) Meetings and functions of Gram Sabha [10 Marks] 2. (b) Election of Pradhan Of the Gram Panchayat [10 Marks] 2. (c) Bench of Nyaya Panchayat [10 Marks] 2. (d) Appointment of Panchs and their term [10 Marks]**

**Q3. As per the provisions of the UP Municipalities Act, 1916, write notes on the following : (a) Composition of municipality [10 Marks] 3. (b) Removal of members of municipality [15 Marks] 3. (c) Corrupt practices [10 Marks]**

**Q4. Explain the following as provided under the UP Zamindari Abolition and Land Reforms Act,1950: (a) Consequences of the vesting of an estate in the State [20 Marks] 4. (b) Gross assets of a Mahal [15 Marks]**

**Q5. As per the provisions of the UP Zamindari Abolition and Land Reforms Act 1950 explain the following : (a) Bhumidhar with transferable rights [07 Marks] 5. (b) Extinction of interest of Bhumidhar with transferable rights [08 Marks] 5. (c) Bhumidhar with non-transferable rights [10 Marks] 5. (d) Extinction of interest of Bhumidhar with non-transferable rights [10 Marks]**

**Q6. Write notes on the following as provided under the UP Urban Planning and Development Act, 1973 : (a) Development Authority [20 Marks] 6. (b) Advisory Council [15 Marks]**

**Q7. (a) "A mistake of fact is good defence but mistake of law is not." Elucidate this statement. [20 Marks] 7.(b) A, an officer of a Court, being ordered by that Court to arrest Y and after due enquiry, believing R to be Y, arrests R instead of Y. Discuss the liability of A. [05 Marks]**

**Q8. (a) What is kidnapping from lawful guardianship? Explain it with essential elements. [20 Marks] 8.(b) A owes money to B for repairing the watch and B retains the watch lawfully as a security for the debt. A takes the watch out of B's possession with the intention of depriving B of the property as security for his debt. Did A commit any crime? [05 Marks]**

**Q9. (a) Explain the essential elements of criminal conspiracy and distinguish it with abetment. 9.(b) A instigates a child to put poison into the food of C and gives him poison for that purpose. The child by mistake puts the poison into the food of B and consequently B dies. Discuss the liability of A. [05 Marks]**

**Q10. (a) Discuss the Right of Private Defence of Property. Can death of attacker be caused in the exercise of Right of Private Defence of Property? How long such Right of Private Defence continues? [20 Marks]** 10.(b) A entered the house of B with the intention of committing theft. B and other members of his family surrounded and attacked A with Lathis. Finding his life in danger, A whipped out a revolver and fired causing death of B. Is A guilty of murder? [05 Marks]