

Bihar JUDICIARY MAINS 2014

LAW OF EVIDENCE AND PROCEDURE

1. (a) Explain the meaning of following:

- (i) Precept
- (ii) District
- (iii) Mesne Profit

(b) Explain the provisions relating to raising of objection to the jurisdiction of the court under the Code of Civil Procedure.

2. (a) Explain the principle of res judicata. How does it differ from 'stay of suit'? Also state whether res judicata applies to execution proceedings.

(b) Explain the provisions of the Code of Civil Procedure as regards filing of second appeal. Is there any case in which second appeal may not lie?

3. (a) What is an interpleader suit? Explain the circumstances in which such a suit can be instituted?

(b) What are the orders from which appeal lies? Whether an appeal lies from an order passed by a court in the exercise of its appellate jurisdiction?

4. (a) What is a fact in issue? Whether it is a relevant fact? Explain the circumstances when the conduct of a party to the proceeding becomes relevant.

4 (b) What are the circumstances when confession of a co-accused may be proved against an accused?

5. (a) What is a leading question? Whether and in what circumstances a leading question may be asked?

5(b) Explain the law as to the proof of legitimacy of a child. Is it enough to prove that the child was born during a valid marriage?

6. (a) Explain the judge's power to put questions or require production of documents from a party during trial of a case.

6(b) Write note on the following:

- (i) May presume
- (ii) Shall presume
- (iii) Conclusive proof

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7. (a) When and under what circumstances a court may exercise the power of appointment of an arbitrator or umpire?

7(b) When and how an award made by an arbitrator but not filed in the Court can be formed into a decree of the court? If any party to the agreement objects to it, how shall the court proceed?

8. (a) Discuss the conditions for and the power of the court to stay legal proceedings when there is an arbitration agreement between the parties.

8(b) How far the provisions of the Limitation Act apply to the arbitration agreement under the Arbitration Act?

9. (a) State to whom warrant of arrest may be directed. Whether such a warrant may be directed to a person? Explain the circumstances and law in this regard.

9(b) What is preventive arrest? Whether and in what circumstances it is competent for a police officer to arrest a person without a warrant? Is it permissible to detain such person in police custody beyond 24 hours?

10. (a) According to law, no judge or magistrate or a public servant., not removable from his office save by or with the sanction of the government, accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, shall be tried for such offence except with the previous sanction of the Central or the State Government, as the case may be.
Whether taking or accepting illegal gratification is an act done in discharge of the official duty for which such a sanction is necessary?

10(b) A is convicted of three offences by a criminal court competent to try such offences and the court passes sentence of imprisonment in all three cases. Individually the Court is competent to pass the sentences but the aggregate of them exceeds the punishment prescribed for any single offence. Whether A needs to be sent for trial to a higher court? State the law.

CONSTITUTION

1. Explain the essential characteristics of a federal constitution with reference to the nature of the Indian Constitution.

2. Right to life does not merely mean the continuance of animal existence. It means the right to live with human dignity. In the light of this statement, discuss briefly different facets of right to life.

3. The Indian republic is a Secular State in which protection is given for freedom of conscience, freedom of profession, practice and propagation of religion. Comment on the statement.

4. Discuss the privileges, powers and position of the President of India.

5. Explain the Constitutional safeguards for the civil servants under the Indian Constitution. Are there any exceptions to these safeguards?

HINDU AND MUHAMMADAN LAW

1. Discuss the modern sources of Hindu Law. Under what circumstances the courts have authority to decide cases of Hindus on the principles of justice, equity and good conscience?

2. (a) Point out and discuss the conditions for a valid Hindu Marriage under the Hindu Marriage Act, 1955.

2(b) M, having living wife, marries a Sikh girl by undergoing three ceremonies of marriage at different times before full moon, Goddess Kali and Guru Granth Sahib. M is prosecuted for bigamy. Decide.

3. What are the essential conditions for a valid adoption under the Hindu Adoption and Maintenance Act, 1956? Is it necessary to enquire into the motive of adoption?

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4. Explain Joint Hindu Family and Coparcenary. Point out the rights of coparcener.

5. Elaborate the changes introduced in the Hindu Succession Act, 1956 by the Hindu Succession (Amendment) Act, 2005.

6. Discuss the formal and material sources of Muslim Law. How was the expression “justice, equity and good conscience” introduced in Muhammadan Law in India?

7. Muhammadan Law was applied to Muslims in British India as a matter of policy. Examine this statement and point out the reasons which dictated the British to follow this policy. Does Shariat apply to Muslims in cases of crime and evidence?

8. (a) Explain the terms paternity and maternity under Muslim Law. Distinguish between legitimacy and legitimation. Does Kuran recognize adoption? Refer to case law. How does acknowledgment of paternity take place?

8(b) X makes a valid acknowledgment of Y, but revokes it after one year. Decide the validity of the revocation.

9. Discuss the concept of guardianship in Islam. Point out the laws which apply in case of different periods of guardianship of Muslim minors.

F, a Muslim wife of 16 years of age, sues for divorce without the intervention of the guardian. Decide the competency of F for instituting the suit.

10. Write notes on following:

- (a) Basic requirements of a will
- (b) Bequeathable third
- (c) Marz-ul-maut

**TRANSFER OF PROPERTY AND PRINCIPLES OF EQUITY INCLUDING THE
LAW OF TRUSTS AND SPECIFIC RELIEF**

PART-I

1. Give the definition of gift. Explain, in detail, when gift can be suspended. Also define onerous gift.

2. How does lease come into existence? Explain, in detail, the rights and liabilities of lessee.

3. (a) What do you understand by doctrine of marshalling and contribution.

3(b) What is meant by doctrine of subrogation? Give explanations also.

4. Define vested interest. How can you differentiate between vested interest and contingent interest?

5. Define sale. Explain, in detail, the rights and liabilities of buyer and seller.

PART-II

6. Explain the following maxims:

- (a) Equality is equity
- (b) He come to equity must come with clean hands

2. He Who Comes to Equity Must Come with Clean Hands:

7. Define trustee. Explain disabilities of trustee.

8. Explain the rights and liabilities of beneficiary.

9. Explain the nature and classification of equitable rights and interests.

10. What do you mean by declaration? Explain when declaration is refused and the effect of declaration.

LAW OF CONTRACT AND TORTS

1. "A contract cannot be enforced by a person who is not a party to it even though it is made for his benefit." Discuss this statement and refer to relevant decided cases and point out the exceptions to this rule.

2. (a) What do you understand by capacity to contract? Who are competent and who are not competent to contract under the Indian Contract Act, 1872. Explain with the help of suitable examples and relevant case laws.

2(b) Decide the following problem on the basis of decided cases:
A and B contract to marry each other. Before the time fixed for marriage, A goes mad. Test the validity of contract.

3. (a) Explain what do you understand by quasi-contract? What are its distinctive features? What is the juridical basis of quasi contract? Explain with the help of illustrations and decided cases.

3(b) Decide the following problem on the basis of decided cases:
A supplies B a lunatic with necessaries suited to his conditions in life. Is A entitled to be paid for? Give reasons.

4. (a) Define consideration. Under what circumstances, the object and consideration of contract are deemed unlawful? How does the public policy affect consideration? Explain with the help of cases.

4. (b) A promised B to subscribe a sum of money for the construction of 'Town Hall'. Can B compel A to perform his promise? Decide with the help of decided case.

5. (a) What is an agreement by way of wager? What test would you apply to determine if or not an agreement is by way of wager. Distinguish a wagering agreement from a good contract.

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5. (b) Are the following transactions agreement by way of wager?
(i) Insurance contract
(ii) Lottery

6. (a) "Tortious liabilities arises from the breach of a duty, primarily fixed by the law. The duty is towards generally and its breach is redressible by an action for unliquidated damages." (Winfield)
Explain the above statement.



6. (b) Is it necessary that to become a crime, an act must be tort? Discuss.

7. Discuss various remedies available against the tort with special reference to judicial and extrajudicial remedies.

8. (a) Explain the doctrine of contributory negligence and discuss in detail various principles governing this doctrine. Answer with the help of leading cases.

8. (b) A parked his car in a street and left his dog inside. The dog had always been quiet and docile. As B was walking, passed the car, the dog which had been barking and jumping about in the car smashed a glass panel and a splinter entered into B's right eye which had to be removed. B sued A for damages. Will he succeed? Give your answer with the help of decided case.

9. (a) Define Assault and Battery and distinguish between the two. Can mere words amount to an assault? Is actual physical contact necessary in a battery? Explain with the help of relevant case laws.

9. (b) A points an unloaded pistol at B, who sues him for an assault. A in his defence pleads that pistol was unloaded. How will you decide? Give reasons to support your answer.

10. Define the term nuisance and discuss its essential elements. In what way does the public nuisance differ from private nuisance? For success in the suit of nuisance, what elements have to be proved by the plaintiff?

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