

Bihar JUDICIARY MAINS 2006

Law of Evidence and Procedure
GROUP – A

1. (a) What is res judicata? In what circumstances the principles of res judicata may be made applicable?

1(b) What are the provisions of the code of Civil Procedure, 1908 relating to suits by or against the government or public offices in their official capacity?

2. (a) Explain the provisions of the Code of Civil Procedure, 1908 regarding reference, review and revision.

2(b) Explain the meaning of following terms:
(i) Decree
(ii) Mesne profits
(iii) Public Officer

3. (a) Write note on any three of the following:
(a) attachment
(b) ex-parte proceedings
(c) Interpleader suit
(d) Second Appeal

3(b) Explain and illustrate the rule that costs shall follow the event. Are there any exceptions to this rule? Discuss.

GROUP- B

4. (a) Explain what is meant by public document and private document. What are the presumptions as to electronic records and digital signature?

4(b) A statement is genus, admission is the species and confession is the sub-species. Discuss

5. (a) Explain estoppel and kinds of estoppel.

5(b) Oral evidence must in all cases be direct. Explain

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6. Write explanatory notes on any three of the following:
(a) Importance of Cross- examination of a witness

6. (b) Conclusive proof

6. (c) Judicial notice

6. (d) Admissibility of a fact and relevancy of a fact

GROUP-C

7. (a) When can an arbitrator be appointed? Whether the arbitrator has power to pass an interim order?

7(b) Whether and under what circumstances parties to the arbitration proceedings can apply for setting aside the arbitral award.

8. What is the effect of an award? Can the award be challenged in a court of law? Can the court modify the award or remit the award?

GROUP-D

9. (a) What is the First Information Report? What is its object and importance at the trial? Distinguish it from the statement of a witness in the course of investigation.

(b) Discuss the provisions of Code of Criminal Procedure relating to attachment of property of a proclaimed offender.

10. (a) Describe the procedure to be followed in summary trial and sessions trial.

10(b) What are the provisions of the Code of Criminal Procedure of Code regarding maintenance of a wife?

HINDU AND MUSLIM LAW
PART- A

1. Discuss the importance of custom as a source of Hindu Law. How far customs form the basis of modern codified Hindu Law.

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2. Who is a coparcener? Discuss the rights of a coparcener. Can a female become coparcener of Hindu Joint Family.

3. Define Hindu Joint Family property. State various modes of partition of Joint Family property. Can a partition of Hindu Joint Family property be reopened? If so, explain the circumstances.

4. Elaborate the fundamental changes introduced by Hindu Succession Act, in respect of succession of property of Hindu Family.

5. Write short note on:
(a) self acquired property
(b) effects of adoption
(c) distinction between alimony and maintenance pendente lite.

PART-B

6. Enumerate the various classes of heirs according to Sunni and Shia Schools. A dies leaving his widow, mother and full brother. Divide his property according to Hanafi Law.

7. What is a waqf? Who can be appointed a Muttawalli of a waqf? Discuss the functions and duties of a Muttawalli be terminated?

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8. Write short note on:
(a) Iddat
(b) Hiba-ba-shartul-iwaj
(c) Acknowledgment

9. Discuss the right of a Muslim woman over her female child. Can she enjoy this right after dissolution of her marriage? Who is a testamentary guardian?

10. Discuss the scope of Muslim Law regarding the maintenance of divorced woman against her husband. Discuss the changes made in this respect in famous Shah Bano case decided by Supreme Court.

TRANSFER OF PROPERTY, EQUITY, TRUST AND SPECIFIC RELIEF

1. What is transfer?

2. What is sale? What is immovable property?

3. How immovable property can be leased? On what grounds lease can be terminated?

4. In what manner immovable property can be mortgaged? Explain.

5. Analyse the law of gifts.

6. Discuss the historical circumstances which led to the growth of equity.

7. Discuss various kinds of trusts.

8. Discuss the law of determination of trust.

9. When a contract can be specifically performed?

10. When a temporary injunction be issued?

LAW OF CONTRACT AND TORTS

1. "The sanctity of contract is the foundation of the law of contract and the doctrine of impossibility cannot be permitted to become a device to destroy this sanctity". Discuss the implications of this statement.

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2. "Mistake in the formation of contract may be common; mutual or unilateral". Discuss this statement, and explain briefly the cases where mistakes may avoid the contract.

3. How is an offer made, revoked and accepted? What rules apply when an offer is made through post and over the telephone?

4. Comment on the following:

- (a) There cannot be a contract to make a contract.
- (b) An attempt at deceit which does not deceive is not fraud.
- (c) Undue influence is a subtle form of coercion.

5. "Where there is a right, there is a remedy". In the light of this maxim, discuss the various remedies for breach of contract and the circumstances in which each is available.

PART-B

6. What remedies are open to a person who has been prosecuted on a false criminal charge and has been acquitted? What must be established in these cases?

7. Explain the law relating to contributory negligence as applicable in India and England.

8. "A statement made in performance of a duty is privileged". Discuss this statement referring to tort of defamation.

9. Comment on the following:

- (a) That to what a person assents is not deemed in law an injury.
- (b) Necessity knows no law
- (c) "It is doubtful whether the act of god is of general application as a defence to liability of tort".

10. Explain the principle of vicarious liability and discuss the circumstances when a master can be held liable for the tort of his servant. Refer to decided cases.

CONSTITUTIONAL LAW

1. What is Public Interest Litigation? How has it helped the Supreme Court in protecting fundamental rights in India?

2. Critically examine the fundamental right to life and personal liberty since 1978 with the help of decided cases.

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3. Discuss the effects of proclamation of National Emergency.

4. Discuss the advisory jurisdiction of the Supreme Court of India.

5. Write notes on:
(a) Article 368 and the Supreme Court of India.
(b) Preamble of the Constitution of India.

6. Describe with the help of decided cases, the privileges of Parliament.

COMMERCIAL LAW

1. (a) Define sale and distinguish between sale and agreement to sell.

(b) Explain the principle of "Caveat Emptor" and point out the exceptions thereto.

2. (a) "A buyer cannot acquire better title to the goods than what the seller has." Explain it and discuss important exceptions to this rule.

2(b) What do you mean by delivery? Discuss the rules regarding delivery of goods.

3. (a) What do you understand by a negotiable instrument? Discuss the characteristics of negotiable instrument.

3(b) Explain the terms cheque, a cheque in the electronic form and a truncated cheque. Discuss the difference between cheque and bill of exchange.

4. (a) What do you mean by negotiation and assignment? Distinguish between transfer by negotiation and transfer by assignment.

4(b) Does a material alteration make a negotiable instrument void? Is there any exception to this rule? Discuss and explain the effect of following alterations of negotiable instrument:
(i) The holder of a bill alters the date of the instrument to accelerate the time of payment.
(ii) A bill payable three months after date is altered into a bill payable three months after sight.

5. Is company a legal person? What are advantages of legal personality of a company? Discuss the circumstances when the veil of a company can be lifted.

6. What do you mean by memorandum of association? How can an object clause be altered? Discuss the effect of Doctrine of Ultra Vires on alteration of memorandum.

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7. (a) What do you mean by misstatement in prospectus? Discuss the liability for misstatement in prospectus.

7(b) How can a company be wound up under supervision of court.



8. (a) What are essentials of partnership? How does it differ from Joint Family Business?

8(b) What do you mean by implied authority of a partner? Discuss which are and which are not implied authority of partners.

9. (a) Explain the doctrine of holding out and discuss its exceptions.

9(b) Can a minor be admitted to a partnership? If so, what will be his rights and liabilities during his minority and after he has attained majority?

10. (a) What do you mean by goodwill of a firm? Can goodwill of a firm be sold?

10(b) Can a partner be liable for firm's business even after his retirement?

10(c) Discuss the consequences of non-registration of the firm.

10(d) Discuss various modes in which a firm can be dissolved.

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