Assam Judicial Service Grade III (Mains) 2011

Paper IV · Law II · compulsory paper

100 marks · 3 hours · 2011

Indian Penal Code

1(i). Identify the right answer: A is at work with a hatchet; the head flies off and kills a man who is standing by. What offence is committed by A in this situation? (a) A has committed the offence of culpable homicide (b) A has committed the offence of culpable homicide not amounting to murder (c) A has committed no offence as it was an accident (d) A has committed no offence as use of hatchet was a necessity of his livelihood.

1(ii). What is the age of child if he is to be exempted from criminal liability? (a) Below 10 years (b) Below 7 years (c) Below 6 years (d) Below 12 years.

1(iii). Defence of insanity is developed on which of the following? (a) Automatism (b) McNaughten's Rules (c) Irresistible impulse (d) Equivocality test.

1(iv). Which one of the following statements regarding Section 34 and 149 of the Indian Penal Code is correct? (a) Common intention and common object are the same (b) Both are distinct offences in themselves (c) Section 34 enunciates a mere principle of liability, and creates no offence, while Section 149 creates a specific offence (d) Sections 34 and 149 are mutually helping Sections.

1(v). With an intention to kill B, P administers sugar mistaking it for arsenic: (a) P has committed no offence (b) P is liable for attempt to murder (c) P is liable for attempt to culpable homicide (d) P is liable for attempt to grievous hurt.

2(a). Write short notes on the following — Mens rea.

2(b). Dishonesty.

2(c). Criminal Intimidation.

2(d). Document.

2(e). Electronic Record.

3. What is culpable homicide? When does culpable homicide amount to murder and when does it not amount to murder? Illustrate.

4(a). Distinguish between any two — Theft and Extortion.

4(b). Criminal Misappropriation and Criminal Breach of Trust.

4(c). Preparation and Attempt to commit a crime.

5. What is an unlawful assembly as defined in I.P.C. Assess the criminal liability, if force or violence is used by any member of unlawful assembly?

6. Explain the ingredients of abetment? What is the consequence when one offence is committed and another offence is abetted?

Code of Criminal Procedure

7(i). Identify the right answer: A confessional statement recorded in accordance with the procedure prescribed by section 164 Cr. P.C. — (a) Can be used as substantive evidence without being formally proved (b) Cannot be used as substantive evidence at all (c) Cannot be used as a substantive evidence without being formally proved (d) None of the above.

7(ii). Classification of summons case and warrants case is useful — (a) To determine the procedure of the trial (b) To determine the procedure of investigation (c) To decide the question of issuance of process to the accused (d) (a) & (c) are correct.

7(iii). When a complaint is presented to a Magistrate and the Magistrate proceeds to examine the complainant and the witnesses — (a) He is conducting an investigation (b) He is conducting an inquiry (c) He is conducting a trial (d) Both (a) & (c).

7(iv). Offences other than those mentioned in section 320 of Cr.P.C. are — (a) Not compoundable (b) Compoundable with the permission of the Court (c) Compoundable by the Court of Sessions (d) None of the above.

7(v). A declaration of forfeiture under section 95 of the Cr.P.C. can be set aside by — (a) Magistrate issuing a search warrant (b) Chief Judicial Magistrate/Chief Judicial Metropolitan Magistrate (c) Court of Sessions (d) High Court.

8. What do you understand by arrest? How is an arrest made? When can the police arrest a person without an order from a Magistrate and/or without a warrant? Explain the rights of an arrested person.

9. Explain briefly First Information Report and its evidentiary value in the trial of an accused person.

10. What are the essentials of a Judgment? What is the mode of its delivery? Can a criminal court alter or revise its own Judgment after it is signed?

11(a). Write short notes on — Warrant case.

11(b). Search Warrant.

11(c). Cognizable Offence.

11(d). Inherent Power of Court.

11(e). Charge.

12. What do you understand by 'taking cognizance of an offence'? Explain the procedure that is adopted in taking cognizance or dismissal of complaint? What are the powers of a magistrate regarding taking cognizance?

Indian Evidence Act

13. Explain briefly the rules relating to exclusion of oral evidence by documentary evidence under the Indian Evidence Act.

14(a). Write short notes on — Secondary Evidence.

14(b). Facts in issue.

14(c). Omissions.

14(d). Res gestae.

14(e). Admission.

15. "Evidence is weighed, not counted". Explain.

16(a). Distinguish between "Disproved" and "Not Proved".

16(b). Extra Judicial Confession and Confession.

Law of Torts

17(i). Explain briefly — Res ipsa loquitur.

17(ii). Injuria sine damno.

17(iii). Damnum sine injuria.

17(iv). Force Majeure.

17(v). Statutory authority.

18. On the eve of Diwali while letting off fireworks, A negligently let a lighted squib ball (a firecracker) down in the crowded street. The fiery explosive burst suddenly with a loud noise near B. However, B escaped with minor injuries, but the fear of narrow escape operated so strongly on his mind that he suffered anxiety neurosis requiring hospitalization. C a small child playing in the street was seriously injured and immediately removed to the nearby hospital where he was declared brought dead. A bystander informed M, mother of C, about the accident. M rushed to the hospital where she saw the body of C. As a result of what she saw, she suffered severe and persisting psychiatric illness. B and M sue A for damages for nervous shock. Briefly discuss the liability, if any, of A towards them.

19. The employee of the Telecommunication Department opened a manhole in the street for repairs and in the evening left the manhole covered by a tent unattended. They placed warning lamps around the tent. Z, a boy of eight years, along with his uncle, took a lamp and entered the manhole. As they emerged, the lamp was knocked into the hole and a violent explosion took place, with flames shooting thirty feet into the air. Z was knocked back into the hole where he sustained serious burns. His uncle had a serious heart attack due to the sound of explosion of the lamp. Both Z and his uncle filed a suit against the Telecommunication department for the damages. How will you decide? Refer to decided cases.

20(i). Identify the right answer: Malice in law means — (a) wrongful act done intentionally but without just cause or excuse (b) wrongful act done intentionally with just cause & excuse (c) wrongful act done intentionally with good motive (d) wrongful act done intentionally with evil motive.

20(ii). Malice in fact means a wrongful act done intentionally — (a) without evil motive (b) with evil motive (c) without any just cause or excuse (d) with good motive.

20(iii). For volenti non-fit injuria to be available, it is necessary that (a) the plaintiff knows that risk is there (b) the plaintiff agrees to suffer the harm (c) the plaintiff knowing that risk is there, agrees to suffer the harm (d) all the above.

20(iv). Which of the following is correct? (a) where a statute gives an absolute authority, there is no liability even if some nuisance or other harm necessarily results (b) when the statute gives a conditional authority there is no liability if no nuisance or some other harm is caused (c) when the statute gives a conditional authority there is no liability even if some nuisance or other harm is caused (d) both (a) & (b).

20(v). The doctrine of vicarious liability applies when there is a (a) relationship of principal & agent (b) relationship of partners (c) relationship of master & servant (d) all the above.