Assam Judicial Service Grade III (Mains) 2023

Paper IV · Law II · compulsory paper

12 August 2023 · 100 marks · 3 hours · IPC, CrPC, Evidence Act and Torts (law as examined in 2023)

Group A — Indian Penal Code

1. Choose the most appropriate answer (1 × 5 = 5)

1(i) Abetment of any offence, if the act abetted is committed in consequence of the abetment, and where no express provision is made by the Indian Penal Code for the punishment of such abetment, is dealt under: (a) Section 109 (b) Section 110 (c) Section 111 (d) Section 112.

1(ii) A is beating Z and Y jumps in to stop the beating. In the process A intentionally strikes Y. As per Section 71 of the Indian Penal Code which of the following should be the punishment? (a) One punishment for voluntarily causing hurt only to Z. (b) One punishment for voluntarily causing hurt to Z and another for the blow given to Y. (c) One punishment for voluntarily causing hurt only to Y.

1(iii) Insanity as a defence means that a person at the time of doing an act, by reason of unsoundness of mind is incapable of knowing: (a) the nature of the act (b) that what he is doing is wrong (c) that what he is doing is contrary to law (d) either (a) or (b) or (c).

1(iv) A by putting B in fear of grievous hurt dishonestly induces B to sign and affix his seal in blank paper, and deliver it to A. A has committed: (a) Extortion (b) Robbery (c) Cheating (d) Dacoity.

1(v) A and B agreed to commit the murder of C by poisoning and D was to procure poison, but he did not procure it. A and B are guilty of: (a) No offence (b) Criminal conspiracy to murder C (c) Abetment to murder by conspiracy (d) Attempt to murder with the aid of section 34, IPC.

2. Name the offence in each illustration (1 × 4 = 4)

2(i) Z picks up a cheque on a banker signed by X, payable to bearer, but without any sum having been inserted in the cheque. Z fraudulently fills up the cheque by inserting the sum of ten thousand rupees.

2(ii) B finds the key of A's house door, which A had lost, and commits house-trespass by entering A's house at midnight, having opened the door with that key.

2(iii) X causes cattle to enter upon a field belonging to Y, intending to cause and knowing that he is likely to cause damage to Y's crop.

2(iv) M, a man, regularly follows W, a woman, and attempts to contact W to foster personal interaction with her repeatedly despite a clear indication of disinterest by W.

3. Answer any two of three (3 × 2 = 6)

3(i) Limitations on exercise of right of Private Defence.

3(ii) Salient differences between Common Intention and Common Object.

3(iii) Salient differences between Wrongful Restraint and Wrongful Confinement, with illustrations.

4. "In all robbery there is either theft or extortion". Evaluate the statement. P obtains property from Q by saying "Your child is in the custody of my gang, and will be put to death unless you send us Rs. 10,000/-". Examine. (4 marks)

5. Explain the nature and extent of (a) unsoundness of mind, and (b) intoxication, required to exempt a person from criminal liability. (6 marks)

Group B — Criminal Procedure Code

6. Choose the most appropriate answer (1 × 5 = 5)

6(i) In an application for maintenance, it is not necessary to aver that: (a) the wife is unable to maintain herself (b) the husband has neglected or refused to maintain the wife (c) the husband has sufficient means to maintain the wife (d) the husband has treated the wife with cruelty.

6(ii) Criminal Procedure Code has been included in which of the following Lists in the Constitution of India? (a) Union List (b) State List (c) Concurrent List (d) All of these.

6(iii) Under Section 389(3), Code of Criminal Procedure, 1973, the trial court can release an accused on bail after conviction where: (a) the accused is not on bail and sentenced to imprisonment not exceeding 3 years and no fine is imposed (b) the accused is on bail and sentenced to imprisonment not exceeding 3 years and no fine is imposed (c) the accused is on bail and sentenced to imprisonment not exceeding 4 years (d) the accused is not on bail and sentenced to imprisonment not exceeding 4 years.

6(iv) Which of the following persons has/have the right to file appeal under Section 372, Criminal Procedure Code, 1973 against an order of acquittal? (a) Victim (b) Victim's guardian (c) Victim's legal heir (d) All the above.

6(v) An Assistant Sessions Judge may pass: (a) imprisonment for life (b) imprisonment not exceeding 14 years (c) imprisonment not exceeding 10 years (d) imprisonment up to 12 years.

7. Discuss salient differences, any two (2½ × 2 = 5)

7(i) Investigation, Inquiry and Trial.

7(ii) Appeal and Revision.

7(iii) Compoundable and Non-Compoundable Offences.

8. A letter which is in the custody of the Postal Authority is required by an Inspector of Police, who is investigating a serious crime involving offences of cheating, forgery and misappropriation of money amounting to more than Rs. 100 crores, as an important piece of evidence. The Inspector directs the Postal Authority to deliver it to him. Is the Postal Authority legally bound? If it refuses, what procedure should the Inspector follow? (6 marks)

9. Discuss briefly the constitution and powers of Criminal Courts under the Code of Criminal Procedure, 1973. (9 marks)

Group C — Evidence Act

10. Choose the most appropriate answer (1 × 5 = 5)

10(i) Leading questions must be asked: A. In cross-examination. B. In re-examination, except with the permission of the court. Choose: (a) A correct, B incorrect (b) A incorrect, B correct (c) Both correct (d) Both incorrect.

10(ii) A confession made by an accused is relevant and admissible: (a) when made to a third person after being detained by a police officer (b) when made on being threatened with assault and beatings by public (c) when it is extra judicial, voluntary and truthful and beyond reproach (d) none of the above.

10(iii) Documents in respect of which privilege has been provided under Section 123 of the Evidence Act: (a) published official records (b) unpublished official records (c) both (d) either.

10(iv) Under the Evidence Act, the doctrine of res gestae applies to: (a) only civil proceedings (b) only criminal proceedings (c) only administrative tribunals (d) both (a) and (b).

10(v) Presumption as to genuineness of Official Gazettes in electronic form is contained in: (a) Section 81A (b) Section 88A (c) Section 90A (d) Section 73A.

11. Write short notes on any two with examples (2 × 2 = 4)

11(i) Privileged communications.

11(ii) Judicial Notice.

11(iii) Presumption as to Dowry Death.

11(iv) Onus Probandi.

12. Discuss salient differences, any two (4 × 2 = 8)

12(i) Fact in Issue and Relevant Fact.

12(ii) Primary Evidence and Secondary Evidence.

12(iii) Proved Fact and Disproved Fact.

13. What, if any, are the differences between Estoppel, Acquiescence and Waiver? Explain with illustrations. (8 marks)

Group C — Law of Torts (group letter as printed)

14. Choose the most appropriate answer (1 × 4 = 4)

14(i) The case of Rylands vs. Fletcher has laid down the principle of: (a) defamation (b) conspiracy (c) strict liability of land owner (d) none of these.

14(ii) The principle "facts speak for themselves" is expressed by the maxim: (a) Ubi Jus Ibi Remedium (b) Res Ipsa Loquitur (c) Novus Actus Interveniens (d) Causa Causans.

14(iii) Easement is a right: (a) in rem (b) in personam (c) neither (a) nor (b) (d) in rem in general but is personal in exceptional cases.

14(iv) Why is defamation a tort? (a) Individuals have the right to be free from bodily harm. (b) Individuals have the right to conduct business without interference. (c) Individuals have the right to own property. (d) Individuals have the right to enjoy good reputation.

15. Brief notes on any two (3 × 2 = 6)

15(i) Doctrine of Vicarious liability.

15(ii) Inevitable accident.

15(iii) Innuendo.

15(iv) Contributory negligence.

16. Answer any three (3 × 3 = 9)

16(i) What is nuisance? Distinguish between public nuisance and private nuisance.

16(ii) Explain the difference between libel and slander. When does slander become actionable per se?

16(iii) Define assault and distinguish it from battery.

16(iv) Distinguish between tortious liability and contractual liability.

16(v) The case of Gloucester Grammar School (1410) and the principle involved.

16(vi) The case of Ashby vs. White (1703) and the principle Injuria Sine Damnum.

17. "Tortious liability arises from the breach of duty primarily fixed by law." Discuss. (6 marks)