Bihar Judicial Service (Mains) 2021

Commercial Law · optional paper

Group A

1. (a) Discuss the doctrine of nemo dat quod non habet. Explain all the exceptions which apply to this doctrine.
(b) Who is called an unpaid seller? What are various rights available to an unpaid seller under the Sale of Goods Act, 1930? Explain.

2. (a) What do you understand by condition and warranty in a contract for sale? Distinguish between the terms conditions and warranties. When is breach of condition treated as breach of warranty?
(b) A asked B, a medicine merchant, for a hot water bottle and inquired if it would stand hot boiling water. B sold an American rubber bottle to A saying that it would stand hot boiling water. The bottle, which was purchased by A for his wife, bursts and injures his wife. A sues B for damages. Decide the issue with reason.

Group B

3. (a) What do you mean by negotiable instrument? Discuss its characteristics and kinds. Explain essentials of a cheque.
(b) A document contained "received from Mr. and Mrs. T Claydon, the sum of 10,000 as a loan to be paid back in full by July 1, 1983 with interest rate of 20 percent per annum". Explain whether this document amounts to a promissory note or not. Give reason.

4. (a) What do you mean by the terms holder and holder in due course? Discuss the rights and privileges of holder in due course.
(b) What do you mean by presentment? What are the rules of presentment in context of time and place? Explain the situation when presentment is not necessary.

Group C

5. (a) Define memorandum of association of a company. Discuss its contents. Make distinction between memorandum of association and articles of association.
(b) What do you understand by doctrine of indoor management? Explain the exceptions to this doctrine.

6. (a) Who can appoint a director in a company? Explain the conditions precedent to such appointments. Discuss the duties of directors.
(b) What are different types of meetings in a company? Explain and discuss the formalities to be fulfilled for such meetings.

7. (a) Discuss the composition of the National Company Law Tribunal. Critically examine the status and powers of the National Company Law Tribunal.
(b) Discuss the rationale and qualifications of 'independent directors'. Comment on the role of an independent director.

Group D

8. (a) What are the essentials to the constitution of partnership? Discuss and explain why mutual agency is considered to be the true test of partnership.

(b) What do you understand by goodwill of a firm? Discuss the provisions of Partnership Act, 1932 relating to use and sale of goodwill of a firm.

9. (a) What do you mean by implied authority of partner? Discuss what can be done by a partner under implied authority.
(b) A, a managing partner, appoints X as a lawyer to defend a suit brought against the firm without an express consent of remaining partner. Does this fall under implied authority? Discuss in the light of legal provisions.

10. (a) What do you mean by dissolution of Partnership Firm? What are various modes of dissolution of partnership firm?
(b) How can a partner retire from a partnership firm? Discuss the rights and liabilities of a retiring partner under the Partnership Act, 1932.

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